

Multiple Agency Fiscal Note Summary

Bill Number: 5576 E S SB	Title: Sexual assault procedures
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Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	.0	850,000	850,000	850,000	.0	850,000	850,000	850,000	.0	850,000	850,000	850,000
Department of Children, Youth, and Families	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Corrections	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	0.0	850,000	850,000	850,000	0.0	850,000	850,000	850,000	0.0	850,000	850,000	850,000

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts			3,942,000			3,942,000			3,942,000
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
Department of Children, Youth, and Families	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Gaius Horton, OFM	Phone: (360) 819-3112	Date Published: Final 3/13/2023
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Judicial Impact Fiscal Note

Bill Number: 5576 E S SB	Title: Sexual assault procedures	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:

STATE	FY 2024	FY 2025	2023-25	2025-27	2027-29
State FTE Staff Years					
Account					
General Fund-State 001-1	425,000	425,000	850,000	850,000	850,000
State Subtotal \$	425,000	425,000	850,000	850,000	850,000
COUNTY	FY 2024	FY 2025	2023-25	2025-27	2027-29
County FTE Staff Years					
Account					
Local - Counties	1,733,000	1,733,000	3,466,000	3,466,000	3,466,000
Counties Subtotal \$	1,733,000	1,733,000	3,466,000	3,466,000	3,466,000
CITY	FY 2024	FY 2025	2023-25	2025-27	2027-29
City FTE Staff Years					
Account					
Local - Cities	238,000	238,000	476,000	476,000	476,000
Cities Subtotal \$	238,000	238,000	476,000	476,000	476,000

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: Ryan Giannini	Phone: 3607867285	Date: 03/03/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 03/08/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 03/08/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 03/13/2023

186,009.00

Request # 235-1

Part II: Narrative Explanation

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

The engrossed substitute bill differs from the substitute by outlining notification requirements to the courts and extending the timeline of the compliance hearings the court will hold from within 5 days of release to within 10 days of receiving notice of a person's release. These changes do not change the fiscal impacts from the substitute bill.

The bill would require biological samples of persons convicted of certain offenses to be collected. It would require the samples be collected "prior to release from confinement." If the sample is not collected, the sentencing court would be required to schedule a compliance hearing within 10 days of receiving notice of a person's release to ensure sample is collected. For persons who will not serve a term of confinement, the court shall order the person to be administratively booked at a city or county jail to collect the biological sample; or if local police or sheriff is present and has a protocol for collecting the sample in the courtroom, the court shall order a sample to be taken prior to leaving court. The bill would also require the court to create and implement a biological sample collection protocol at the time of sentencing for persons convicted of certain offenses, inform the person that refusal is a gross misdemeanor and if biological sample is not collected at time of sentencing, court shall schedule a compliance hearing within 10 days of the sentencing to ensure collection.

II. B - Cash Receipts Impact

None

II. C - Expenditures

The fiscal impact of the bill would be the cost of compliance review hearings on convictions where a sample wasn't collected at the time of sentencing.

Section 1(5)(a)(ii) would require to the sentencing court to schedule a compliance hearing for cases where a sample was not collected at the time of sentencing. Rough estimates are that DNA sampling is already collected in 30 percent of cases before superior court and 18 percent of cases before the courts of limited jurisdiction. That would leave 70 percent of superior court cases and 82 percent of courts of limited jurisdiction cases needing to schedule an additional compliance hearing.

For the purposes of this fiscal note, the assumption is that courts would need to schedule additional hearings for convictions, statewide.

* Superior courts cost is estimate is \$1,828,000 per year
24,062 felony convictions * 70 percent of cases = 16,843 additional hearings

State cost estimated at = \$425,000 (half the salary and all the benefits of superior court judges)
County cost estimated at = \$1,403,000

*District and municipal courts cost estimate is \$568,000 per year
4,500 misdemeanor convictions * 82 percent of cases = 3,690 additional hearings

County cost estimated at 60% = \$330,000
City cost estimated at 40% = \$238,000

Part III: Expenditure Detail

186,009.00

Form FN (Rev 1/00)

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Request # 235-1

Bill # 5576 E S SB

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	280,000	280,000	560,000	560,000	560,000
Employee Benefits	145,000	145,000	290,000	290,000	290,000
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					
Total \$	425,000	425,000	850,000	850,000	850,000

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

<i>County</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Benefits					
Capital	1,733,000	1,733,000	3,466,000	3,466,000	3,466,000
Other					
Total \$	1,733,000	1,733,000	3,466,000	3,466,000	3,466,000

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

<i>City</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Benefits					
Capital					
Other	238,000	238,000	476,000	476,000	476,000
Total \$	238,000	238,000	476,000	476,000	476,000

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

186,009.00

Form FN (Rev 1/00)

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Request # 235-1

Bill # 5576 E S SB

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

Individual State Agency Fiscal Note

Bill Number: 5576 E S SB	Title: Sexual assault procedures	Agency: 307-Department of Children, Youth, and Families
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Ryan Giannini	Phone: 3607867285	Date: 03/03/2023
Agency Preparation: Jay Treat	Phone: 360-556-6313	Date: 03/07/2023
Agency Approval: James Smith	Phone: 360-764-9492	Date: 03/07/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 03/07/2023

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.

Comparison of 5576 SSB to 5576 ESSB:

Section 1(5)(c)(ii) requires the Department of Children, Youth, and Families (DCYF) to notify the sentencing court within three business days of a person's release that it is has released a person without collecting a biological sample. The sentencing court shall schedule a compliance hearing within ten days of receiving notice of the person's release. All attorney's fees and court costs associated with scheduling and attending the compliance hearing shall be paid by DCYF.

5576 SSB

Section 1(5)(c) amends RCW 43.43.754 if a youth is required to have a DNA biological sample collected, the Department of Children, Youth, and Families (DCYF) must complete the collection at intake, and if not at intake, as soon as practicable, but must be prior to their release from confinement.

Section 1(5)(c)(ii) requires the Department of Children, Youth, and Families (DCYF) to notify the sentencing court within three business days of a person's release that is has released a person without collecting a biological sample. The sentencing court shall schedule a compliance hearing within ten days of receiving notice of the person's release. All attorney's fees and court costs associated with scheduling and attending the compliance hearing shall be paid by DCYF.

Section 1(5)(e) requires that the sentencing court shall order biological samples at the time of sentencing.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

No fiscal impact

DCYF/Juvenile Rehabilitation already collects a DNA sample prior to release from commitment.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

None

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

Bill Number: 5576 E S SB	Title: Sexual assault procedures	Agency: 310-Department of Corrections
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Ryan Giannini	Phone: 3607867285	Date: 03/03/2023
Agency Preparation: John Ching	Phone: (360) 725-8428	Date: 03/09/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 03/09/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 03/09/2023

Part II: Narrative Explanation

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

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

Engrossed Substitute SB 5576 differs from previous versions of the bill by putting the responsibility of collecting a biological sample on the city or county jail facility in which the person was first confined. This proposed legislation amends RCW 43.43.754 and 9A.44.020 and relates to sexual assault procedures.

Section 1(5)(a)(ii) states that if a biological sample is not collected prior to a person's release from confinement, the responsible city or county jail facility, department of corrections (DOC) facility or department of children, youth, and family's facility will notify the sentencing court within three business days of release that it has released the person without collecting a biological sample. If the biological samples are not collected prior to release, the sentencing court shall schedule a compliance hearing within ten days after sentencing to ensure that the biological samples are collected at the expense of the facility that failed to collect the person's biological sample at time of confinement.

Section 2(2) states that evidence of the victim's past sexual behavior including, but not limited to social media account, including any text, image, video, or picture which depict sexual content and other information that appeals to a prurient interest is inadmissible on the issue of credibility and inadmissible to prove victim's consent except as provided in subsection (3).

Effective date is assumed to be 90 days after adjournment of session in which this bill is passed.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

We assume this bill will have no fiscal impact to DOC.

This bill requires the collection of biological samples before individuals are released from confinement. DOC's current policy 310.610 – DNA Samples, addresses the requirements listed in the bill, as all incarcerated individuals newly admitted to reception centers provide samples during the intake process. Therefore, we assume that there is no fiscal impact to DOC.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

None.

Part V: New Rule Making Required

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

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5576 E S SB

Title: Sexual assault procedures

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

Legislation Impacts:

- Cities: Costs to serve notice to individuals about DNA collection, costs for attendance at compliance hearings, costs for jails to book individuals required to provide a DNA sample.
- Counties: Same as above.
- 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 compliance hearings; number of offenders who would be required to be booked into jail for a DNA sample.

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: Alice Zillah	Phone: 360-725-5035	Date: 03/10/2023
Leg. Committee Contact: Ryan Giannini	Phone: 3607867285	Date: 03/03/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/10/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 03/13/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

This note is on ESSB 5576, and compares changes to SHB 5576.

CHANGES BETWEEN THIS VERSION AND PRIOR BILL VERSION:

The engrossed substitute directs city and county jails to attend compliance hearings for individuals for whom DNA samples were not collected prior to release from jail, prison, or Department of Children, Youth and Families facilities.

SUMMARY OF CURRENT BILL:

Sec. 1 amends RCW 43.43.754 If the biological sample is not collected prior to the person's release from confinement in a city or county jail, the responsible jail will notify the sentencing court within three business days of the person's release that it has released the person without collecting the person's biological sample. Within 10 days of receiving notice of the person's release, the sentencing court shall schedule a compliance hearing. The local police department or sheriff's office shall serve the person with notice of the compliance hearing and shall file proof of service with the sentencing court. A representative of the local police department or sheriff's office shall attend the compliance hearing and obtain the person's biological sample at the hearing.

All attorneys' fees and court costs associated with scheduling and attending the compliance hearing shall be paid for by the city or county jail facility that failed to collect the person's biological sample at the time of the person's confinement.

If the biological sample is not collected before a person's release from a prison or Department of Children, Youth and Families (DCYF) confinement, all attorneys' fees and court costs associated with scheduling and attending the compliance hearing shall be paid for by the Department of Corrections facility or DCYF facility that failed to collect the person's biological sample at the time of the person's confinement.

Sec. 2 amends RCW 9A.44.020. Evidence of the victim's past sexual behavior including but not limited to the victim's social media account, including any text, image, video, or picture, which depict sexual content, sexual history, nudity or partial nudity, intimate sexual activity, communications about sexual activity, communications about sex, sexual fantasies, and other information that appeals to a prurient interest is inadmissible on the issue of credibility and is inadmissible to prove the victim's consent.

In any prosecution for the crime of rape, trafficking pursuant to RCW 9A.40.100, or any of the offenses in chapter 9.68A RCW, or for an attempt to commit, or an assault with an intent to commit any such crime evidence of the victim's past social media account, including any text, image, video, or picture, which depict sexual content, sexual history, nudity or partial nudity, intimate sexual activity, communications about sexual activity, communications about sex, sexual fantasies, and other information that appeals to a prurient interest is not admissible if offered to attack the credibility of the victim.

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 IMPACTS FROM PRIOR BILL VERSION:

The engrossed substitute creates new, indeterminate costs for city and county jails and law enforcement agencies, due to the requirement to serve notice to individuals and attend compliance hearings for individuals for whom DNA was not collected prior to their release from jail, prison, or DCYF facility.

SUMMARY OF EXPENDITURE IMPACTS OF CURRENT BILL VERSION:

The legislation would have indeterminate expenditure impacts for city and county jails. The provisions concerning admissible evidence in a sexual assault trial would not create costs for local governments.

Washington law requires all offenders convicted of a felony, certain gross misdemeanors and all currently registered sex and kidnapping offenders to provide a DNA sample. Data is not available on the percentage of these offenders who, under current law, are referred to a law enforcement agency for a DNA sample and now, as a result of the legislation, would be booked into jail to provide the sample.

Law enforcement officers would now be required to serve notice to individuals and attend compliance hearings if those individuals had been released from local or state custody without having a DNA sample collected. The Washington Association of Sheriffs and Police Chiefs estimates that attendance at a compliance hearing will require one hour of an officer's time. The time to serve notice will vary by jurisdiction. Because the number of compliance hearings can't be estimated, the costs for this provision are indeterminate.

For offenders who now would be booked into a city or county jail for a DNA sample, the following steps would be required:

- An officer meets the person outside the secure portion of a jail
- Confirms their paperwork and identity
- Pat down search for weapons and contraband
- Apply restraints, because many jails disallow someone to enter the jail who is not thoroughly searched
- Places valuables in a bag for safe keeping
- A minimal computer booking (name, date of birth, demographics)
- Obtain the sample
- Release out of computer and walk back out the door and return valuables

There are 39 county sheriff departments and 221 police departments in cities and towns in Washington. The 2023 Local Government Fiscal Note Program Criminal Justice Cost Model estimates the average hourly salary (including benefits and overhead) for an officer employed by a city to be \$66, and the same figure for an officer employed by a county to be \$60.

In fiscal year 2022, there were 391 arrests for indecent exposure and 85 arrests for patronizing a prostitute. For the purposes of this example, we assume that these individuals would be less likely to be confined compared to other groups for whom DNA samples are ordered. We further assume each booking to take approximately one hour. Therefore, if cities and counties saw a proportionate increase in the number of persons who were now required to be booked into jail for a DNA sample, they would see annual costs as follows:

Cities:

405 instances X 1 hour X \$66 = \$26,730

Counties:

71 instances X 1 hour X \$60 = \$4,260

Because these costs are based on estimates, the total costs are 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.

CHANGES BETWEEN THIS VERSION AND PRIOR BILL VERSION:

The engrossed substitute bill does not create revenue impacts.

SUMMARY OF REVENUE IMPACTS OF CURRENT BILL VERSION:

The legislation would have no revenue impact for local governments.

SOURCES:

Washington Association of Sheriffs and Police Chiefs