

# Multiple Agency Fiscal Note Summary

|                               |                                       |
|-------------------------------|---------------------------------------|
| <b>Bill Number:</b> 1324 E HB | <b>Title:</b> Prior juvenile offenses |
|-------------------------------|---------------------------------------|

## 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   | 108,900        | 108,900        | 108,900        | .0         | 0        | 0           | 0        | .0         | 0        | 0           | 0        |
| Caseload Forecast Council                   | .0   | 0              | 0              | 0              | .0         | 0        | 0           | 0        | .0         | 0        | 0           | 0        |
| Department of Children, Youth, and Families | Non-zero but indeterminate cost and/or savings. Please see discussion. |                |                |                |            |          |             |          |            |          |             |          |
| Department of Corrections                   | Non-zero but indeterminate cost and/or savings. Please see discussion. |                |                |                |            |          |             |          |            |          |             |          |
| <b>Total \$</b>                             | <b>0.0</b>   | <b>108,900</b> | <b>108,900</b> | <b>108,900</b> | <b>0.0</b> | <b>0</b> | <b>0</b>    | <b>0</b> | <b>0.0</b> | <b>0</b> | <b>0</b>    | <b>0</b> |

| Agency Name         | 2023-25  |          |         | 2025-27 |          |       | 2027-29 |          |       |
|---------------------|--|----------|---------|---------|----------|-------|---------|----------|-------|
|                     | FTEs   | GF-State | Total   | FTEs    | GF-State | Total | FTEs    | GF-State | Total |
| Local Gov. Courts   |  |          | 499,576 |         |          |       |         |          |       |
| 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        |
| Caseload Forecast Council                   | .0         | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| Department of Children, Youth, and Families | .0         | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| Department of Corrections                   | .0         | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| <b>Total \$</b>                             | <b>0.0</b> | <b>0</b> | <b>0</b> | <b>0.0</b> | <b>0</b> | <b>0</b> | <b>0.0</b> | <b>0</b> | <b>0</b> |

| 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

|   |                                 |   |
|---|---------------------------------|---|
| <b>Prepared by:</b> Cynthia Hollimon, OFM | <b>Phone:</b><br>(360) 810-1979 | <b>Date Published:</b><br>Final 3/20/2023 |
|---|---------------------------------|---|

# Judicial Impact Fiscal Note

|                               |                                       |  |
|-------------------------------|---------------------------------------|--|
| <b>Bill Number:</b> 1324 E HB | <b>Title:</b> Prior juvenile offenses | <b>Agency:</b> 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    |         |         |         |         |         |
| <b>Account</b>           |         |         |         |         |         |
| General Fund-State 001-1 | 108,900 |         | 108,900 |         |         |
| State Subtotal \$        | 108,900 |         | 108,900 |         |         |
| COUNTY                   | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
| County FTE Staff Years   |         |         |         |         |         |
| <b>Account</b>           |         |         |         |         |         |
| Local - Counties         | 499,576 |         | 499,576 |         |         |
| Counties Subtotal \$     | 499,576 |         | 499,576 |         |         |
| CITY                     | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
| City FTE Staff Years     |         |         |         |         |         |
| <b>Account</b>           |         |         |         |         |         |
| 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.

|                                    |                       |                  |
|------------------------------------|-----------------------|------------------|
| Contact                            | Phone:                | Date: 03/13/2023 |
| Agency Preparation: Angie Wirkkala | Phone: 360-704-5528   | Date: 03/17/2023 |
| Agency Approval: Chris Stanley     | Phone: 360-357-2406   | Date: 03/17/2023 |
| OFM Review: Gaius Horton           | Phone: (360) 819-3112 | Date: 03/17/2023 |

186,361.00

Form FN (Rev 1/00)

Request # 248-1

Bill # 1324 E HB

## Part II: Narrative Explanation

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

The engrossed bill would change the fiscal impact to the courts by limiting resentencing to those in total confinement. Additionally, the underlying assumptions about resentencing costs have changed. They are based upon information provided to the Administrative Office of the Courts (AOC) by the Superior Court Judges' Association (SCJA).

This bill relates to the scoring of prior juvenile offenses in sentencing range calculations, amends RCW 9.94A.525, and adds a new section to RCW 9.94A.

Section 3(1) would provide that any offender whose offender score for that offense was increased due to juvenile adjudications is entitled to resentencing upon the offender's motion for relief if the person is currently incarcerated in total confinement and has a release date of January 1, 2025 or later.

Section 3(2) would require the court to set an expedited date for resentencing.

### II. B - Cash Receipts Impact

None

### II. C - Expenditures

The bill would have fiscal impacts for AOC court form updates and for courts to set resentencing hearings upon a motion for relief.

#### ADMINISTRATIVE OFFICE OF THE COURTS

Minimal fiscal impact to the Administrative Office of the Courts (AOC). AOC would incur costs of \$1,900 for forms updates if the bill passes. Estimates include costs for approximately 15 hours of Legal Services Senior Analyst time.

#### AOC STAFF IMPACTS INCLUDE STANDARD COSTS

Explanation of standard costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 31.89% of salaries.

Goods and Services are the agency average of \$3,800 per direct program FTE.

Travel is the agency average of \$2,500 per direct program FTE.

One-time IT Equipment is \$4,800 for the first fiscal year per direct program FTE. Ongoing Equipment is the agency average of \$1,600 per direct program FTE.

Agency Indirect is calculated at a rate of 24.73% of direct program salaries and benefits.

#### SUPERIOR COURT IMPACT

Assumption change from prior notes: The model for prior cost estimates was originally based on Blake resentencing hearing length. However, upon subsequent review by a small panel of experienced judges from both small and large courts, it was determined that a more accurate estimate would be an average hearing length of 30 minutes for agreed resentences and 60 minutes for contested resentences.

Additionally, based on an informal survey conducted with superior court judges, we are now estimating a split in the projected HB 1324 caseload of 70% agreed and 30% contested resentences. This had not previously been included in this analysis.

The Department of Corrections (DOC) provided data that further corroborated the revised time estimates. While DOC does not track hearing length, it did provide some data regarding requested hearing length for resentencing. DOC reported that of the 26 Blake hearings tracked in February 2023, the average estimated hearing length requested was 35 minutes; the frequency distribution was bimodal with "the majority falling into the 30 min or 60 min requested time".

Of these, 75% of the requests were for hearings of 30 minutes and 25% for 60-minute hearings. This data, while limited, roughly supports the resentencing mix of 70% agreed and 30% contested assumption and was consistent with the judges' reported resentencing experience.

186,361.00

Form FN (Rev 1/00)

2

Request # 248-1

Bill # 1324 E HB

Applying these updated resentencing hearing times to the superior court cost formula, the revised the judicial need assessment for EHB 1324 sentences equals 0.78 FTE with corresponding court costs of \$605,576. This reflects a 60-minute allotment for contested cases (prep time and hearing time) and a 30-minute allotment for uncontested cases (prep time and hearing time). These are averages, so we expect judges across the state to encounter hearings that fall on either side of these time estimates.

This would equal an estimated annual court cost of \$605,576.

State annual cost = \$107,000 (50 percent of salary/100 percent of benefits for judges' compensation)

Counties annual cost = \$499,576

### Part III: Expenditure Detail

#### Part III: Expenditure Detail

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

| <u>State</u>                       | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|------------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years                    |         |         |         |         |         |
| Salaries and Wages                 | 71,100  |         | 71,100  |         |         |
| Employee Benefits                  | 37,400  |         | 37,400  |         |         |
| 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     |         |         |
| <b>Total \$</b>                    | 108,900 |         | 108,900 |         |         |

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

| <u>County</u>         | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|-----------------------|---------|---------|---------|---------|---------|
| FTE Staff Years       |         |         |         |         |         |
| Salaries and Benefits |         |         |         |         |         |
| Capital               |         |         |         |         |         |
| Other                 | 499,576 |         | 499,576 |         |         |
| <b>Total \$</b>       | 499,576 |         | 499,576 |         |         |

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

| <u>City</u>           | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|-----------------------|---------|---------|---------|---------|---------|
| FTE Staff Years       |         |         |         |         |         |
| Salaries and Benefits |         |         |         |         |         |
| Capital               |         |         |         |         |         |
| Other                 |         |         |         |         |         |
| <b>Total \$</b>       |         |         |         |         |         |

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

NONE

**III. D - FTE Detail**

| <b>Job Classification</b>     | <b>Salary</b> | <b>FY 2024</b> | <b>FY 2025</b> | <b>2023-25</b> | <b>2025-27</b> | <b>2027-29</b> |
|-------------------------------|---------------|----------------|----------------|----------------|----------------|----------------|
| Legal Services Senior Analyst | 114,400       | 0.0            |                | 0.0            |                |                |
| <b>Total FTEs</b>             |               | 0.0            |                | 0.0            |                | 0.0            |

**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

# Individual State Agency Fiscal Note

|                               |                                       |  |
|-------------------------------|---------------------------------------|--|
| <b>Bill Number:</b> 1324 E HB | <b>Title:</b> Prior juvenile offenses | <b>Agency:</b> 101-Caseload Forecast Council |
|-------------------------------|---------------------------------------|--|

## 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:                  | Phone:                | Date: 03/13/2023 |
| Agency Preparation: Clela Steelhammer | Phone: 360-664-9381   | Date: 03/15/2023 |
| Agency Approval: Clela Steelhammer    | Phone: 360-664-9381   | Date: 03/15/2023 |
| OFM Review: Cynthia Hollimon          | Phone: (360) 810-1979 | Date: 03/20/2023 |

## Part II: Narrative Explanation

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

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

See attached.

### II. B - Cash receipts Impact

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

None.

### II. C - Expenditures

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

See attached.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

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

NONE

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE

### IV. C - Capital Budget Breakout

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

NONE

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

NONE



**Part V: New Rule Making Required**

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

# **SHB 1324**

## **SCORING OF PRIOR JUVENILE OFFENSES IN SENTENCING RANGE CALCULATIONS**

**101 – Caseload Forecast Council**  
**March 14, 2023**

### **SUMMARY**

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

Section 1 Intent section.

Section 2 Amends RCW 9.94A.525 by removing adjudications for juvenile offenses from scoring against adult offenses.

Section 3 Adds a new section to chapter 9.94A RCW that states any offender sentenced for an offense committed prior to the effective date of the section, and whose score was increased due to juvenile adjudication(s) is entitled to a resentencing hearing upon the offender's motion for relief if the person is currently incarcerated in total confinement and has a release date of January 1, 2025, or later.

Section 3 Additionally states that beginning January 1, 2025, this section applies to individuals meeting criteria of Section 1:

- With release dates scheduled after January 1, 2025, who have less than 3 years remaining on their sentence;
- Who would be eligible for release within 3 years of January 1, 2025, based on an offender score that excludes juvenile adjudications; or
- Who have served over 15 years or at least 50% of their sentence.

Section 3 Additionally states that beginning January 1, 2026, this section applies to individuals meeting criteria of Section 1 that are not eligible under subsection (3) of this section.

### **EXPENDITURES**

**Assumptions.**

None.

**Impact on the Caseload Forecast Council.**

None.

**Impact Summary**

This bill:

- Reduces offender scores for some individuals.

### **Impact on prison and jail beds**

Criminal history scores are provided by the counties and do not necessarily correspond to criminal history listed on the judgment and sentence form. Additionally, the Caseload Forecast Council (CFC) does not necessarily receive all criminal history from the various counties, offender scores can be subject to negotiations between the parties involved and the CFC cannot determine the age at offense for offenses in history. Additionally the bill establishes priority for resentencing of individuals currently incarcerated whose offender score is impacted by the provision of the bill.

Therefore, the CFC lacks data necessary to reliably estimate the bed impacts of the bill. However, reductions in offender scores will result in most sentences receiving lower confinement, reducing the use of prison and jail beds. Some individuals may have a reduced score that shifts the presumptive sentence from prison to non-prison.

While the impacts are unknown, the following is provided as information.

Of the 13,221 felony sentences imposed in Fiscal Year 2022, approximately 18% of the sentences (2,366 sentences, estimated to be 2,129 individuals) had one or more prior juvenile offenses, with the average of 2.45 juvenile offenses. It is unknown what score each juvenile offense generated towards the current offender score. Of the sentences with one or more juvenile offenses in history, 64% (1,514 sentences, estimated 1,302 individuals) of the sentences under current scoring rules resulted in a prison sentence and 28% (664 sentences, estimated 624 individuals) resulted in a jail sentence. The remaining sentences were no confinement (8%). It is unknown how many of the sentences had the offender score impacted by a juvenile offense as some individuals may still have a score of nine or more after removing juvenile history, some may have just one juvenile offense that scored as ½ point and did not impact the score, or some may have been sentenced on the drug grid and the score, after removing the juvenile offense(s), is within the same standard sentencing range cell as before the juvenile offense(s) was removed.

While the scoring rule for sex offenses (RCW 9.94A.525(17)) does not remove the scoring of prior juvenile sex offenses, subsection (1) excludes all juvenile adjudications from the definition of conviction. Because of this, it is assumed that no prior juvenile adjudications would be included in the offender score, including sex offenses.

### **Juvenile Rehabilitation Bed Impacts**

Generally, the scoring rules for adult convictions should not impact juvenile bed needs. However, current statutes require individuals sentenced in adult court for an offense committed before the age of 18 to serve to their confinement at a Juvenile Rehabilitation (JR) facility until age 25, or until release if occurring prior to age 25. As a result, any adult conviction for an offense committed by someone under the age of 18 that included juvenile adjudications in the offender score may reduce the need for JR beds as removing the juvenile adjudications from scoring may result in a lower offender score. However, as less than 1% of all sentences in the adult system are committed by those less than age 18, it is assumed any impacts to JR would be minimal.

# Individual State Agency Fiscal Note

|                               |                                       |  |
|-------------------------------|---------------------------------------|--|
| <b>Bill Number:</b> 1324 E HB | <b>Title:</b> Prior juvenile offenses | <b>Agency:</b> 307-Department of Children, Youth, and Families |
|-------------------------------|---------------------------------------|--|

## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

**Non-zero but indeterminate cost 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:          | Phone:                | Date: 03/13/2023 |
| Agency Preparation: Jay Treat | Phone: 360-556-6313   | Date: 03/15/2023 |
| Agency Approval: James Smith  | Phone: 360-764-9492   | Date: 03/15/2023 |
| OFM Review: Cynthia Hollimon  | Phone: (360) 810-1979 | Date: 03/20/2023 |

## 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 1324 HB to 1324 EHB:

New section three states that beginning January 1, 2025, this section applies to individuals meeting criteria under subsection one:

--With release dates scheduled after January 1, 2025, who have less than three years remaining on their sentence;

--Who would be eligible for release within three years of January 1, 2025, based on an offender score that does not include adjudications or;

--Who have served over 15 years or at least 50 percent of their sentence.

--Also, beginning January 1, 2026, this section applies to individuals meeting the requirements of subsection 1 of this section and not eligible for resentencing under subsection 3 of this section.

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1324 EHB

Section two amends RCW 9.94A.525 by removing adjudications of guilt for juvenile offenses from scoring against adult offenses.

Section three adds a new section to chapter 9.94A RCW that states any offender sentenced for an offense committed prior to the effective date of this section, and whose offender score was increased due to any juvenile adjudications is entitled to a resentencing hearing upon the offender's motion for relief if the person is currently incarcerated in total confinement and has a release date of January 1, 2025 or later. At resentencing the court shall sentence the offender as if any juvenile adjudications were not part of the offender score at the time of the original sentence.

Beginning January 1, 2025, this section applies to individuals meeting criteria under subsection one:

--With release dates scheduled after January 1, 2025, who have less than three years remaining on their sentence;

--Who would be eligible for release within three years of January 1, 2025, based on an offender score that does not include adjudications or;

--Who have served over 15 years or at least 50 percent of their sentence.

--Also, beginning January 1, 2026, this section applies to individuals meeting the requirements of subsection 1 of this section and not eligible for resentencing under subsection 3 of this section.

### 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.*

Fiscal impact is indeterminate.

The removal of prior juvenile adjudications from scoring against adult offenses could potentially impact Juvenile Rehabilitation (JR) beds.

Current statutes require individuals sentenced in adult court for an offense committed before the age of 18 to serve their confinement at a JR facility until age 25, or until release if occurring prior to age 25. Per the Caseload Forecast Council (CFC), the CFC does not receive all criminal history from the counties, offender scores can be subject to negotiations between the parties involved and the CFC cannot determine the age at offense for offenses in history. Therefore, the CFC cannot estimate the bed impact of the bill. Any adult conviction for an offense committed by someone under the age of 18 that included juvenile adjudications in the offender score may reduce the need for JR beds. Impacts to JR would be minimal since less than 1% of all sentences in the adult system are committed by youth less than age 18.

The bill may potentially result in a decrease in Average Daily Population (ADP) and indeterminate costs to DCYF. It is unknown at this time how many youth will be impacted; therefore the caseload forecast and per capita adjustments are unknown at this time.

DCYF assumes the impact will result when the ADP caseload changes in the JR residential facilities forecast. The impact would be reflected in the forecasted maintenance level budget step. DCYF will true up our fiscal impact in subsequent budget submittals if the legislation is enacted into law.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

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

### III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost 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

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

|                               |                                       |  |
|-------------------------------|---------------------------------------|--|
| <b>Bill Number:</b> 1324 E HB | <b>Title:</b> Prior juvenile offenses | <b>Agency:</b> 310-Department of Corrections |
|-------------------------------|---------------------------------------|--|

## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

**Non-zero but indeterminate cost 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:            | Phone:                | Date: 03/13/2023 |
| Agency Preparation: Jaymie Hall | Phone: (360) 725-8428 | Date: 03/15/2023 |
| Agency Approval: Ronell Witt    | Phone: (360) 725-8428 | Date: 03/15/2023 |
| OFM Review: Cynthia Hollimon    | Phone: (360) 810-1979 | Date: 03/20/2023 |



## 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.*

AN ACT relating to the scoring of prior juvenile offenses in sentencing range calculations; amending RCW 9.94A.525; adding a new section to chapter 9.94A RCW; creating a new section; and providing an expiration date.

1324 E SB makes the following amendments to section 3:

Beginning January 1, 2025, individuals satisfying the requirements may move for relief from sentence if they:

1. Have release dates scheduled on or after January 1, 2025, and have less than three years remaining on their sentence.
2. Would be eligible for release within three years of January 1, 2025, based on an offender score excluding juvenile adjudications; or
3. Have served over 15 years, or at least 50 percent, of their sentence.

Beginning January 1, 2026, other individuals meeting the requirements, but who do not qualify to move for relief as of January 1, 2025, may motion for relief from sentence.

1324 E SB keeps the following the same as the original bill:

Section 1(1) implements the juvenile justice system's goals of rehabilitation and reintegration.

Section 1(2) brings Washington in line with other states which do not consider prior juvenile offenses in sentencing range calculations for adults.

Section 1(3) takes into consideration scientific research which shows that adolescent's perception, judgement, and decision making differs greatly from that of adults.

Section 1(4) grants procedural protections in criminal proceedings in any adjudication which may be used to determine severity of a criminal sentencing.

Section 1(5) states how the juvenile legal system gravely impacts sentencing ranges in adult court.

Section 2(1)(b) states that adjudication in accordance with Title 13 RCW will not be included in offender score RCW 9.94A.030.

Section 2(2)(g) removes subsection (g) stating the application of this subsection to both adult and juvenile prior convictions

Section 2(3) states that no out-of-state or federal adjudications or convictions for juvenile offenses may be included in the offender score.

Section 2(5)(a)(i) removes language that would include prior juvenile offenses for which sentences were served consecutively from the sentencing court calculation regarding prior offenses found under RCW 9.94A.589 (1) (a).

Section 2(5)(a)(ii) removes language that would include juvenile offense time served in the calculation of the offender score in the case of multiple prior convictions for offense committed before July 1st, 1986, of which sentences were served concurrently.

Section 2(7) removes language pertaining to adding points for any prior juvenile conviction for present conviction of non-violent offense.

Section 2(8) removes language pertaining to adding points for any prior juvenile conviction for present conviction of violent offense.

Section 2(9) removes language pertaining to adding points for any prior juvenile conviction for present conviction of serious violent offense.

Section 2(10) removes language pertaining to adding points for any prior juvenile conviction for present conviction of Burglary 1.

Section 2(11) removes language pertaining to adding points for any prior juvenile conviction for present conviction of felony traffic offense.

Section 2(12) removes language pertaining to adding points for any prior juvenile conviction for present conviction for homicide by watercraft or assault by watercraft.

Section 2(13) removes language pertaining to adding points for any prior juvenile conviction for present conviction for manufacturing of methamphetamine.

Section 2(14) removes language pertaining to adding points for any prior juvenile conviction for present conviction of Escape from Community Custody under RCW 72.09.310.

Section 2(15) removes language pertaining to adding points for any prior juvenile conviction for present conviction of Escape 1 under RCW 9A.76.110 or Escape 2 under RCW 9A.76.120.

Section 2(16) removes language pertaining to adding points for any prior juvenile conviction for present conviction of Burglary 2 or residential burglary.

Section 2(18) removes language pertaining to adding points for any prior juvenile conviction for present conviction of failure to register as a sex offender under RCW 9A.44.130 or 9A.44.132.

Section 2(20) removes language pertaining to adding points for any prior juvenile conviction for present conviction of Theft of a motor vehicle, possession of a motor vehicle, taking motor vehicle without permission 1, or taking motor vehicle without permission 2.

Section 2(21)(c) removes subsection that would allow subsequent juvenile conviction to be included in calculation of the offender score and removes language of “adult” without changing the context of the subsection.

Section 3 is a new section added to chapter 9.94A RCW.

Section 3(2) states that the sentencing court will grant motion if it is found that the previous offender score was increased due to any juvenile adjunctions and will immediately set an expediated date for resentencing. At resentencing, the court will sentence the offender as if any juvenile adjudications were not part of the offender score at the time the original sentence was imposed.

Effective date is assumed 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.*

## **II. C - Expenditures**

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

The fiscal impact of this bill is indeterminate, assumed to be greater than \$50,000 per Fiscal Year (FY).

This bill reduces offender scores for some incarcerated individuals.

Criminal history scores are provided by the counties and do not necessarily correspond to criminal history listed on the judgment and sentence form. Additionally, the Caseload Forecast Council (CFC) does not necessarily receive all criminal history from the various counties, offender scores can be subject to negotiations between the parties involved and the CFC cannot determine the age at offense for offenses in history.

Therefore, the CFC lacks data necessary to reliably estimate the bed impacts of the bill. However, reductions in offender scores will result in most sentences receiving lower confinement, reducing the use of prison and jail beds. Some individuals may have a reduced score that shifts the presumptive sentence from prison to non-prison.

While the impacts are unknown, the following is provided as information.

Of the 13,221 felony sentences imposed in Fiscal Year 2022, approximately 18% of the sentences (2,366 sentences, estimated to be 2,129 individuals) had one or more prior juvenile offenses, with the average of 2.45 juvenile offenses. It is unknown what score each juvenile offense generated towards the current criminal history score. Of the sentences with one or more juvenile offenses in history, 64% (1,514 sentences, estimated 1,302 individuals) of the sentences under current scoring rules resulted in a prison sentence and 28% (664 sentences, estimated 624 individuals) resulted in a jail sentence. The remaining sentences were no confinement (8%). It is unknown how many of the sentences had the criminal history score impacted by a juvenile offense as some individuals may still have a score of nine or more after removing juvenile history, some may have just one juvenile offense that scored as ½ point and did not impact the score, or some may have been sentenced on the drug grid and the score, after removing the juvenile offense(s), is within the same standard sentencing range cell as before the juvenile offense(s) was removed.

As of December 31st, 2022, there are 5,304 incarcerated individuals with a juvenile offense in their criminal history. The Department of Corrections (DOC) does not have the capability to predict how often or in what circumstances the courts would exercise their sentencing authority, therefore, the fiscal impact for this proposed legislation is indeterminate.

The DOC assumes this bill would likely result in an ADP decrease, although the impact cannot be reliably estimated, however with the number of sentences imposed where the individual has one or more prior juvenile offenses and the number of incarcerated individuals currently under DOC jurisdiction, although the fiscal impact is indeterminate, it is assumed to be a savings of more than \$50,000 per FY.

### **ASSUMPTIONS**

- 1) The estimated ADP impact to DOC prison facilities/institutions and/or community supervision/violator caseloads is based on projections from CFC.
- 2) We assume Direct Variable Cost (DVC) of \$6,980 per incarcerated individual per FY to facilitate cost discussions during legislative session for bills. This cost estimate includes prison and health services direct variable costs. It does not include staffing or dollars necessary for staffing needed at the facility outside of the living/housing units. The DVC is calculated by DOC and reviewed and approved with Office of Financial Management, Senate, and House staff each

legislative session.

3) We assume additional impacts will result when ADP caseload changes in either prison or community, and resources will be necessary. The DOC will “true up” our fiscal impact in subsequent budget submittals should the legislation be enacted into session law.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

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

#### III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost 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:** 1324 E HB

**Title:** Prior juvenile offenses

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

### Legislation Impacts:

- Cities: Indeterminate expenditure impact resulting from a change in demand for jail beds
- Counties: Approximately \$10 million resulting from prosecutorial costs from participating in resentencing hearings; approximately \$1.6 million resulting from public defense costs to do same; indeterminate expenditure impact resulting from a change in demand for jail beds
- 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 resentencing hearings that will be granted; prosecutor and public defense costs for a given hearing; magnitude and direction of any change in demand for jail beds

### 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: 03/20/2023 |
| Leg. Committee Contact:         | Phone:                | Date: 03/13/2023 |
| Agency Approval: Alice Zillah   | Phone: 360-725-5035   | Date: 03/20/2023 |
| OFM Review: Cynthia Hollimon    | Phone: (360) 810-1979 | Date: 03/20/2023 |

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

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

This fiscal note analyzes the impact of EHB 1324, comparing it to the impact of HB 1324.

#### **CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:**

The engrossed bill would specify that someone “sentenced for an offense committed prior to the effective date of section 2 of this act, and whose offender score for that offense was increased due to any juvenile adjudications” is entitled to a resentencing hearing “if the person is currently incarcerated in total confinement and has a release date of January 1, 2025, or later.”

The previous bill version did not include the total confinement and release date requirements for resentencing eligibility.

#### **SUMMARY OF CURRENT BILL:**

The proposed legislation concerns counting prior convictions for juvenile offenses towards a person’s criminal history score for the purposes of adult sentencing.

Section 2 would amend RCW 9.94A.525, removing references to counting prior convictions for juvenile offenses towards a person’s criminal history score for the purposes of adult sentencing, and adding clauses specifying that such prior convictions may not be included in an adult criminal history score.

Section 3 would add a new section to chapter 9.94A RCW. Subsection 3 (1) would specify that a person “sentenced for an offense committed prior to the effective date of section 2 of this act, and whose offender score for that offense was increased due to any juvenile adjudications” is entitled to a resentencing hearing “if the person is currently incarcerated in total confinement and has a release date of January 1, 2025, or later.”

If the court finds a person meets the above requirements, and their criminal history score was increased because of any prior juvenile convictions, that person must be resentedenced as though those convictions were not a part of their criminal history score when they were initially sentenced.

Subsection 3 (3) would specify that, beginning January 1, 2025, it applies to people who meet the criminal history score, total confinement and release date requirements above:

- With release dates scheduled on or after January 1, 2025, who have less than three years remaining to serve on their sentence
- Who would be eligible for release within three years of January 1, 2025, based on an offender score that does not include juvenile adjudications
- Who have served over 15 years or at least 50 percent of their sentence.

Beginning January 1, 2026, section 3 would apply to people meeting the requirements of subsection 3 (1) who are not eligible for resentencing under subsection 3 (3).

### **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 engrossed bill would reduce the number of people who would be eligible for resentencing hearings compared to the previous bill version, since under the provisions of the engrossed bill only people who are currently incarcerated, serving a term of total confinement and meet certain other conditions would be entitled to resentencing hearings. Under the provisions of the original bill, people under community custody who met certain other eligibility requirements would have been entitled to resentencing hearings as well.

It is unknown how many people in community custody would have petitioned for and been granted resentencing hearings under the provisions of the previous bill version, however, so the magnitude of any associated reduction in local government expenditure impact is indeterminate.

#### EXPENDITURE IMPACT OF CURRENT BILL:

The proposed legislation would result in an indeterminate, but significant increase in local government expenditures as a result of the resentencing hearings the bill would require. Both the amended sentences resulting from these hearings as well as future sentences based on criminal history scores that do not include prior juvenile convictions could have an indeterminate impact on local government expenditures as a result of change in demand for jail beds.

Section 3 would entitle people whose criminal history scores for offenses committed before this bill would become effective were increased by prior juvenile convictions to be resentenced as if these prior convictions were not a part of their criminal history score, as long as these people meet certain other conditions. These resentencing hearings would require the participation of both prosecutors, and in the cases of people who are indigent, public defenders.

Please note that while these resentencing hearings would also create additional court costs, these costs are discussed in the fiscal note prepared by the Administrative Office of the Courts (AOC).

According to the Washington Association of Prosecuting Attorneys (WAPA), the attorney time required for each of these cases can vary widely based on their complexity, ranging from an hour for a simple hearing, to a week or more for a complex case like one involving a murder conviction. If a similar number of people seek resentencing under section 3 of this bill as are estimated to be eligible for resentencing as a result of the Blake decision, WAPA estimates that prosecution costs could total \$10 million or more.

The Washington Defender Association (WDA) provided an analysis of the fiscal impact of this bill that indicates public defense costs resulting from resentencing hearings could total approximately \$1.6 million statewide. This analysis used a representative sample drawn from people sentenced in King County courts to estimate the total number of currently incarcerated people in Washington who may have had their sentencing range increase as a result of counting prior juvenile offenses at 2,689.

WDA anticipates that the number of people who would actually be resentenced under the provisions of the proposed legislation would be lower than this figure, however, for several reasons. First, most juvenile points are counted as half a point, and criminal history scores in Washington are rounded down, meaning an additional half point could have no impact on a person's presumptive sentence, depending on the details of a particular case. Second, the petition process to secure a resentencing hearing can be lengthy, so WDA anticipates that people with less than a year left on their sentences may not benefit from resentencing. Finally, an incarcerated person would be required to petition the court for resentencing under this bill's provisions, and based on observations from the process of resentencing people pursuant to the Blake decision, WDA anticipates not all eligible people will petition for resentencing, even if they have more than a year remaining on their sentence.

For those reasons, the analysis provided by WDA assumed that half of the estimated 2,689 people who may have had their sentencing range increase as a result of counting prior juvenile offenses would petition for and be granted resentencing. This analysis also assumed that 70% of cases would result in agreed resentences and 30% would result in contested resentences.

These assumptions are similar to those the Superior Court Judge's Association used in estimating the court costs associated with resentencing hearings for the AOC fiscal note for this bill. The association assumed 1,437 additional

hearings, 70% of which would result in agreed resentences and 30% of which would result in contested resentences.

The intermediate cost calculations to arrive at the estimate of total public defense costs are below.

Agreed orders (941 cases):

$((5 \text{ hours attorney time per case} \times \$95 \text{ hourly salary}) + (2 \text{ hours paralegal time per case} \times \$74 \text{ hourly salary})) \times 941 \text{ cases} = \$623 \times 941 = \$586,243$

Contested sentencings (403 cases):

$((12 \text{ hours attorney time per case} \times \$95 \text{ hourly salary}) + (12 \text{ hours mitigation specialist time per case} \times \$87 \text{ hourly salary}) + (4 \text{ hours paralegal time} \times \$74 \text{ hourly salary})) \times 403 \text{ cases} = \$2,480 \times 403 = \$999,440$

Total public defense costs:

$\$586,243 \text{ for agreed order cases} + \$999,440 \text{ for contested sentencing cases} = \$1,585,683$

It is unknown, however, exactly how many people may motion for and be granted a resentencing hearing under the provisions of section 3 of the bill, as well as how much attorney time a given hearing may require from prosecutors and public defenders, so the magnitude of the resulting increase in county expenditures as a result of additional resentencing hearings is indeterminate.

Per the Washington State Caseload Forecast Council's (CFC) fiscal note for this bill, 18% of the 13,221 felony sentences imposed in fiscal year 2022 had one or more prior juvenile convictions. These sentences with prior juvenile convictions are estimated to correspond to 2,129 people. About 64% of these sentences required a term of confinement in prison and about 28% required a term of confinement in jail.

According to CFC, demand for jail beds could change as a result of the sentencing changes and resentencing that this bill would require. While CFC does not have the data necessary to reliably estimate jail bed impacts resulting from this bill, reduced criminal history scores would result in most sentences having a reduced term of confinement, which could decrease demand for jail beds. Some presumptive sentences, however, may shift from prison to jail, which would increase demand for jail beds.

It is unknown, however, how many presumptive sentences may shift from prison to jail, or what the reductions in confinement time may be because of the sentencing changes this bill would make, so the net change in demand for jail beds, and the resulting expenditure impact on local governments, 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.*

### CHANGES IN REVENUE IMPACT BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The engrossed bill would not change the local government revenue impact below.

### REVENUE IMPACT OF CURRENT BILL:

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

### SOURCES:

Washington Association of Prosecuting Attorneys  
Washington Defender Association  
Washington State Administrative Office of the Courts  
Washington State Caseload Forecast Council



