

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5536 E 2S SB AMH TAY H1919.1	<b>Title:</b> Controlled substances
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## Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Social and Health Services	0	0	259,000	0	0	158,000	0	0	158,000
Total \$	0	0	259,000	0	0	158,000	0	0	158,000

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		(97,000)		(148,000)		(175,000)
Local Gov. Total		(97,000)		(148,000)		(175,000)

## 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
Joint Legislative Audit and Review Committee	.1	0	0	22,100	.0	0	0	9,000	.0	0	0	9,000
Administrative Office of the Courts	4.1	5,489,000	5,489,000	5,489,000	4.0	4,654,600	4,654,600	4,654,600	4.0	4,654,600	4,654,600	4,654,600
Administrative Office of the Courts	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Office of Public Defense	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of Attorney General	.0	0	0	0	.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 Commerce	Fiscal note not available											
Washington State Health Care Authority	Fiscal note not available											
Department of Revenue	3.2	733,700	733,700	733,700	1.3	279,000	279,000	279,000	1.3	279,000	279,000	279,000
Washington State Patrol	2.0	1,263,000	1,263,000	1,263,000	2.0	900,000	900,000	900,000	2.0	900,000	900,000	900,000
Criminal Justice Training Commission	.0	150,000	150,000	150,000	.0	0	0	0	.0	0	0	0
Department of Social and Health Services	3.5	915,000	915,000	1,174,000	2.0	560,000	560,000	718,000	2.0	560,000	560,000	718,000
Department of Health	Fiscal note not available											
Department of Children, Youth, and Families	Fiscal note not available											
Department of Corrections	Fiscal note not available											
University of Washington	.0	0	0	0	.0	0	0	0	.0	0	0	0
The Evergreen State College	.0	0	0	0	.6	71,110	71,110	71,110	.0	204,037	204,037	204,037
Environmental and Land Use Hearings Office	.0	0	0	0	.0	0	0	0	.0	0	0	0
<b>Total \$</b>	<b>12.9</b>	<b>8,550,700</b>	<b>8,550,700</b>	<b>8,831,800</b>	<b>9.9</b>	<b>6,464,710</b>	<b>6,464,710</b>	<b>6,631,710</b>	<b>9.3</b>	<b>6,597,637</b>	<b>6,597,637</b>	<b>6,764,637</b>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts			92,636,000			92,636,000			92,636,000
Local Gov. Courts	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Loc School dist-SPI									
Local Gov. Other			3,839,760			1,407,500			
Local Gov. Other	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Local Gov. Total			3,839,760			1,407,500			

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Joint Legislative Audit and Review Committee	.0	0	0	.0	0	0	.0	0	0
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of Public Defense	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Commerce	Fiscal note not available								
Washington State Health Care Authority	Fiscal note not available								
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	0	.0	0	0	.0	0	0
Criminal Justice Training Commission	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	.0	0	0	.0	0	0	.0	0	0
Department of Health	Fiscal note not available								
Department of Children, Youth, and Families	Fiscal note not available								
Department of Corrections	Fiscal note not available								
University of Washington	.0	0	0	.0	0	0	.0	0	0
The Evergreen State College	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.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	Non-zero but indeterminate cost and/or savings. Please see discussion.								
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

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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 014-Joint Legislative Audit and Review Committee
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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	0.1	0.0	0.1	0.0	0.0
<b>Account</b>					
Performance Audits of Government Account-State 553-1	17,600	4,500	22,100	9,000	9,000
<b>Total \$</b>	17,600	4,500	22,100	9,000	9,000

### 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: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Preparation: Dana Lynn	Phone: 360-786-5177	Date: 04/13/2023
Agency Approval: Eric Thomas	Phone: 360 786-5182	Date: 04/13/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 04/13/2023

## 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 bill creates a new property tax exemption for nonprofit organizations that maintain an approved recovery residence. The only section of the bill with an impact for JLARC is Part V, sections 21 and 22.

SECTION 21 adds a new real and personal property tax exemption - RCW 84.36.043(2) - for nonprofit organizations that maintain an approved recovery residence registered under RCW 41.05.760 when certain criteria (noted in the bill) are met. The preference applies to taxes levied for collection in calendar years 2024 through 2033.

#### TAX PERFORMANCE STATEMENT DETAILS

SECTION 22 is the tax preference performance statement that categorizes the preference as intended to provide tax relief to certain businesses or individuals, as indicated in RCW 82.32.808(2)(e). The Legislature's specific public policy objective is to maximize funding for recovery residences to the extent possible, thus increasing availability of such residences.

To measure the effectiveness of the tax preference, JLARC must evaluate:

- Annual changes in the total number of parcels qualifying for the tax exemption.
- The annual amount of property tax relief resulting from the tax exemption.
- The average annual number of people housed at recovery residences located on property qualifying for the tax exemption.
- The annualized amount charged for housing at recovery residences located on qualifying property and the annualized estimated increase in the charge for housing if the properties had not been eligible for the exemption.
- The annual amount of expenditures by nonprofits to maintain recovery residences located on qualifying property.

The Legislature intends to extend the expiration date of the preference if a JLARC review finds that:

- The number of properties qualifying for the new exemption has increased.
- The number of individuals using recovery housing located on qualifying property has increased.
- The amount charged for recovery housing is reasonably consistent with the actual cost of operating and maintaining the housing.

To obtain data to perform the review, JLARC staff is directed to refer to:

- Initial applications for the tax exemption as approved by the Department of Revenue under RCW 84.36.815.
- Annual financial statements prepared by nonprofit entities claiming the exemption.
- Filings with the federal government to maintain federal tax exemption status by nonprofit organizations claiming the exemption.
- Any other data necessary for the evaluation.

No effective date is detailed for the sections 21 or 22. It will likely take effect 90 days after the end of the 2023 legislative session.

SECTION 38 notes that if specific funding for the acts is not provided by June 30, 2023 in the omnibus appropriations act, the act is null and void.

### 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.

Assuming funding is provided for the act, JLARC staff would contact and work with the Department of Revenue and other appropriate agencies immediately after passage of the bill to ensure project contacts are established and any other necessary data for JLARC staff’s future evaluation needs are identified and collected. The tax preference is scheduled to apply to property taxes collected for calendar years 2024 through 2033. JLARC usually reviews tax preferences so that there are two legislative sessions between the JLARC review and the expiration date. Based on this, JLARC would likely schedule this preference for review in 2031.

The expenditure detail reflects work conducted to prepare for the future review of the preferences. Costs associated with the review are not included in this fiscal note. This fiscal note reflects only the costs associated with establishing data collection and collecting preliminary data in preparation for the 2031 review.

This tax preference review may require additional resources. The audit will be conducted and presented to JLARC consistent with the processes used for other tax preference reviews. Based on all tax preference legislation that is passed, JLARC may subsequently determine that it can absorb the costs for this proposed bill in its base budget, if the workload of other enacted tax preference legislation does not exceed current staffing. JLARC will assess all of the tax preference reviews mandated in the 2023 legislative session.

This audit will require an estimated 2 audit months.

JLARC Audit Months: JLARC calculates its staff resources in "Audit Months" to estimate the time and effort to undertake and complete its studies. An "Audit Month" reflects a JLARC analyst’s time for a month, together with related administrative, support, and goods/services costs. JLARC’s anticipated 2023-25 costs are calculated at approximately \$22,100 per audit month.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
553-1	Performance Audits of Government Account	State	17,600	4,500	22,100	9,000	9,000
<b>Total \$</b>			17,600	4,500	22,100	9,000	9,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1		
A-Salaries and Wages	11,400	2,900	14,300	5,800	5,800
B-Employee Benefits	3,600	900	4,500	1,800	1,800
C-Professional Service Contracts					
E-Goods and Other Services	2,400	600	3,000	1,200	1,200
G-Travel	200	100	300	200	200
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	17,600	4,500	22,100	9,000	9,000

**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
Research Analyst	126,694	0.1		0.1		
Support staff	89,671					
<b>Total FTEs</b>		0.1		0.1		0.0

**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.*

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 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	4.1	4.0	4.1	4.0	4.0
<b>Account</b>					
General Fund-State 001-1	3,156,900	2,332,100	5,489,000	4,654,600	4,654,600
State Subtotal \$	3,156,900	2,332,100	5,489,000	4,654,600	4,654,600
COUNTY	FY 2024	FY 2025	2023-25	2025-27	2027-29
County FTE Staff Years					
<b>Account</b>					
Local - Counties	18,039,000	18,039,000	36,078,000	36,078,000	36,078,000
Counties Subtotal \$	18,039,000	18,039,000	36,078,000	36,078,000	36,078,000
CITY	FY 2024	FY 2025	2023-25	2025-27	2027-29
City FTE Staff Years					
<b>Account</b>					
Local - Cities	28,279,000	28,279,000	56,558,000	56,558,000	56,558,000
Cities Subtotal \$	28,279,000	28,279,000	56,558,000	56,558,000	56,558,000

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

**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: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 04/13/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 04/13/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 04/13/2023

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Request # 285-1

## Part II: Narrative Explanation

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

The proposed striking amendment to the engrossed second substitute bill would add costs related to reporting requirements and development and maintenance of a statewide pretrial diversion tracking and reporting system to the Administrative Office of the Courts. The other fiscal impacts of the bill are assumed to remain the same.

The following sections of the bill would decrease the annual number of cases before superior courts by changing certain drug offenses from a felony to a misdemeanor and, as a result, increase the annual number of cases before the courts of limited jurisdiction. Additionally, these cases are expected to take more court time because additional hearings would be needed in each case.

Section 2 would make knowing possession of a counterfeit substance and knowing possession and use of a controlled substance in a public place a misdemeanor. It encourages law enforcement and prosecutors to divert such cases for assessment, treatment, and other services; and encourages law enforcement officers to refer the defendant to assessment and services.

Section 3 would make a person who “knowingly” possesses a controlled substance a misdemeanor instead of a C Felony. This section also makes knowing possession and use in a public place a misdemeanor offense. It encourages prosecutors to divert such cases for assessment, treatment, and other services; and encourages law enforcement officers to refer the defendant to assessment and services.

Section 4 would add the “knowing” element to possession of 40 grams or less of cannabis and would provide for the same diversion options for possession of 40 grams or less of cannabis.

Section 5 would maintain “knowing” possession of any legend drug as a misdemeanor, add knowing possession and use of any legend drug in a public place to the statute prohibiting possession of a legend drug, and add the same diversion options outlined in previous sections of the bill.

Section 8 would remove the act of giving drug paraphernalia from actions considered as a class 1 civil infraction, removes testing and analysis equipment from the definition of drug paraphernalia, and expands the public health exception for distribution of public health supplies and substance testing.

Section 9 would fully occupy and preempt the field of drug paraphernalia regulation within the boundaries of the state and cities, towns, counties, and other municipalities may only enact those laws and ordinances specifically authorized by state law and consistent with this RCW 69.50. Local laws inconsistent with, more restrictive than, and or which exceed the requirements of state law may not be enacted and are preempted and repealed.

Section 10 would require:

- \* the court to provide the defendant and the defendant’s counsel with information about the pretrial diversion program, including the procedures and consequences of the diversion program, including that the court notify individuals who undergo the substance use disorder (SUD) assessments and are found to have a SUD that it is unlawful under federal law for individuals addicted to controlled substances to ship, transport, possess, or receive firearms or ammunition which has been shipped in interstate or foreign commerce.

- \* that prosecutors consent to diversion of defendants and strongly encourages them to divert cases in which the defendant is only charged with possession or is charged with possession and other nonfelony charges. Courts would need to create a pretrial diversion program. Absent data on how many individuals would divert into these programs, the assumption is that about 50 percent of the defendants will choose the pretrial diversion program alternative.

- \* a biosychosocial assessment/evaluation must be provided at no cost to defendants who are found indigent by the court.

- \* the evaluation and report to be filed under seal with the court, exempts the report and its copies from public disclosure, and and directs the court to avoid public discussion of the circumstances, history, or diagnoses that could stigmatize the defendant. If the report recommends any treatment or services, the applicable program shall provide the court with regular written status updates at on the defendant’s progress at least monthly, updates are filed under seal with the court, copies given to the prosecuting attorney, defendant and defendant’s counsel, and the updates and their copies are confidential and exempt from public disclosure. No statement or information relating to the charge for which the defendant is receiving treatment or services made by the defendant to the treatment or services provider made during the course of assessment or during the provision of treatment or services may be admissible in any action

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Request # 285-1

Form FN (Rev 1/00)

2

Bill # 5536 E 2S SB AMH TAYL H1919.1

proceeding subsequent to the investigation. If no treatment/services is recommended, the defendant must instead complete an amount of community service as ordered by the court, but not to exceed 120 hours in order to complete pretrial diversion.

\* courts to exonerate bail/bond for individuals in pretrial diversion and to allow for scheduling of proceedings if a pretrial diversion participant is “not meaningfully engaged” with the required treatment.

\* that, once the diagnostic treatment evaluation report is filed with the court, if the report indicates the person has a SUD, the court must inform the person that under federal law they may not possess any firearm or ammunition. The court would then sign an order of ineligibility to possess firearms.

Section 11 would provide sentencing standards for individuals convicted of knowing simple possession of counterfeit substances, controlled substances, cannabis, and legend drugs, and provide for a post-conviction, probation-office-monitored treatment program. The biopsychosocial evaluation is to be filed with the court under seal. If no treatment/services is recommended in the evaluation report, the sentenced individual shall be ordered to complete up to 120 hours of community service as a condition of probation. Treatment providers providing treatment or services to individuals serving a suspended sentence are required to provide status updates to the court at least monthly, updates are to be filed under seal, and the prosecutor may make a motion to the court to for a hearing to consider sanctions if it appears the individual is not meaningfully engaged in treatment. No sanctions may be applied if there is no available treatment or if there is no funding for treatment for indigent individuals. Upon successfully completing the recommended treatment or services, the individual must file proof of successful completion with the court and the court must terminate probation and enter and order vacating the individual’s conviction. Section 11(1) would require that the court inform any person convicted of violating 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b) prior to sentencing that under federal law it is unlawful for someone who is a user of or addicted to any controlled substance to ship, transport, possess, or receive firearms or ammunition shipped in interstate or foreign commerce.

Section 12 would edit the vacate rules to allow someone that was convicted of a possession charge to get their charge vacated upon petition if they provide proof of subsequently completing an approved substance use disorder treatment program.

Sections 13 and 14 would require AOC to complete reports and build a data collection system for use by prosecutors. AOC would be required to collect data and information related to the utilization and outcomes of pretrial diversions pursuant to Section 10, convictions pursuant to Section 11, and motions to vacate convictions in Sections 11 and 12. The data and information that would be required is listed in the bill; not all of it is currently collected by AOC. Some of it likely would never be collected by AOC, even with the creation of a prosecutorial data portal. The bill would require the AOC submit an annual report to the Legislature beginning August 1, 2024 and on August 1st of every year thereafter.

## II. B - Cash Receipts Impact

None

## II. C - Expenditures

This bill would have fiscal impact on the AOC, superior courts, and the courts of limited jurisdiction. The impact to the courts is difficult to accurately estimate. This judicial impact note makes a best estimate of the number of cases that would shift from superior courts to courts of limited jurisdiction based upon superior court caseload data.

### ADMINISTRATIVE OFFICE OF THE COURTS

The bill has been amended to provide eligibility criteria for pretrial diversion which could reduce the number of diversions (i.e., cases with felony charges may not divert, the prosecutor must consent to diversion, and the courts are given clear guidance about when they have discretion to divert). However, the impact of the eligibility criteria on the number of cases is unknown. For the purposes of this judicial impact note, we are using the same assumptions used in previous versions of the bill.

The biopsychosocial assessment would apply to anyone going through diversion (in 6,000 cases for the purposes of this fiscal note) and anyone agreeing to treatment as part of a sentence (up to the total estimated 12,000 cases). The Medicaid reimbursement rate for a biopsychosocial assessment varies, but is up to \$133. For uninsured individuals, treatment agencies may have a sliding scale and costs with private insurance or self-pay costs are often higher. For the purposes of this fiscal note, the cost assumption is based on the Medicaid rate and the case assumption is the high-end number of cases because of the variability with private insurance or self-pay costs. It is indeterminate in how many of these cases a person would be found indigent and the cost a responsibility of the state.

$\$133 * 12,000 \text{ cases} = \$1,596,000$  per year state reimbursement to courts

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Form FN (Rev 1/00)

3

Request # 285-1

Bill # 5536 E 2S SB AMH TAYL H1919.1

There will be implementation costs to the AOC for portal development and reporting requirements under Sections 13 and 14. There are concerns with implementation. Developing a complete system by January 1, 2024 will not be possible (defining requirements; working with a new customer/user that AOC does not currently support through case management systems (prosecutors); developing, testing and implementing a new system). There is uncertainty with these cost estimates until project requirements and scoping are completed.

Some of the data required are captured now in the legacy Judicial Information System, in the courts of limited jurisdiction (Enterprise Justice), and in the superior courts (if juveniles are included, Odyssey) case management systems. Other data are not captured, and could be with the development of the portal in Section 14. This judicial impact note assumes costs related to additional codes, programming, and report development. The estimated costs are outlined below.

FY 2024: \$1,560,900

FTEs include the salary, benefits, and associated standard costs for 3.0 FTE.

Senior Research Associate (1.0 FTE) to compile and analyze the data and prepare the annual reports.

Business Analysts (2.0 FTE) to support the portal development, define requirements, and make modifications to the case management systems.

2,295 staff hours at an average of approximately \$57 per hour across multiple job classifications needed to complete the portal development (System Integrator, Senior System Integrator, IT Supervisor, Quality Assurance, Testers, and Manager).

Contracts for portal development (2 contracted staff for a year \$215 per hour, 35 hours per week, 52 weeks per year equaling \$782,600)

FY 2025: \$736,100 ongoing

FTEs include the salary, benefits, and associated standard costs for 4.0 FTE.

Senior Research Associate (1.0 FTE) to compile and analyze the data and prepare the annual reports.

Business Analysts (2.0 FTE) and Senior System Integrator (1.0 FTE) to support the portal and case management system data and requirements over time.

#### SUPERIOR COURT

No Fiscal Impact

Where the bill changes the seriousness of certain drug offenses from a felony to a misdemeanor, this judicial impact note assumes fewer cases will remain in superior court and will instead be heard in district or municipal court. However, there will not be a cost savings to superior court as existing judges and staff would redirect their efforts to provide adequate time and attention to other cases before the court and to reducing caseload backlogs.

#### COURTS OF LIMITED JURISDICTION

Because the bill changes the seriousness of certain drug offenses from a felony to a misdemeanor, offers the option of pretrial diversion programs, and allows judges discretion in imposition of jail sanctions for failure to comply with post-sentence treatment, this judicial impact note assumes four fiscal impacts to the courts of limited jurisdiction: the cost of additional cases, the cost of additional pretrial diversion hearings per case, the cost of pretrial diversion programs, and the cost of post-sentencing compliance hearings – including a contested hearing per case.

#### TOTAL ADDITIONAL CASES

12,000 additional cases would be heard in district or municipal court each year – approximately 44 percent of them in district court (27 percent from state filings and 17 percent from municipal filings heard in district court because of interlocal contracts between municipalities and district courts) and 56 percent of them in municipal court.

The estimated case split was changed in the second substitute bill after a review of 2021 non-traffic filings in district court and the municipal filings heard in district court through interlocal agreements. Additionally, the estimated time for new cases was changed. These cases would be new to district and municipal court. After a review of the time standards for these cases, a decision was made to change the estimated time spent on these cases to the superior court time estimate for these cases (from approximately 16 minutes per

187,816.00

Request # 285-1

Form FN (Rev 1/00)

4

Bill # 5536 E 2S SB AMH TAYL H1919.1

case to 68 minutes per case). These changes have increased the estimated costs.

This would equal an estimated annual court cost of \$6,197,000.

Counties annual cost = \$1,274,000

City Cost/County Workload to Hear Municipal Cases annual cost = \$796,000

Cities annual cost = \$4,127,000

#### ADDITIONAL PRETRIAL DIVERSION HEARINGS PER CASE

The assumptions about the pre-trial hearing lengths in the engrossed second substitute have changed from the second substitute bill. However, the change in time assumptions are not significant enough to affect the overall fiscal impact of the bill.

These additional cases would require an estimated 3 additional hearings as the person facing charges considers diversion. Two of the hearings are estimated to take 15 minutes each. A third hearing is estimated to take 20 minutes. The additional time is for judges to explain the consequence of potentially diverting and potentially being found to have a SUD as well as the potential consequences of not diverting, being convicted, and then also being ineligible to ship, transport, possess, or receive firearms or ammunition which have been shipped or transported in commerce. For all 12,000 cases, pre-trial diversion hearings would add judicial officer time and associated court costs with an overall estimated annual cost of \$4,634,000.

Counties annual cost = \$825,000

City Cost/County Workload to Hear Municipal Cases annual cost = \$825,000

Cities annual cost = \$2,984,000

#### PRETRIAL DIVERSION PROGRAMS

Pretrial diversion can take many forms in different jurisdictions. Those outlined in the bill include law enforcement referral to assessment services before referral to the prosecutor, prosecutor diversion involving court probation departments, and therapeutic courts. Depending on the path, the costs of the pretrial diversion program would be borne differently. Because it is impossible to predict case to case how pretrial diversion may take place, this judicial impact note assumes diversion to new therapeutic substance use disorder courts. This is in addition to existing therapeutic courts.

Judges assume 6,000 cases (50 percent of total cases) will result in diversion. Based on caseloads in five King County therapeutic courts, the assumption is that each therapeutic court would have 120 cases per year. And, an average cost of therapeutic courts (\$340,000) based on the courts of limited jurisdiction participating in AOC's therapeutic court grant program in the 2021-23 biennium. This is likely a low estimate of the actual costs of therapeutic courts.

The costs of the pretrial diversion program would be:

6,000 cases divided by 120 cases per therapeutic court = 50 new therapeutic courts statewide multiplied by \$340,000 per court = \$17,000,000 per year

Counties annual cost = \$4,534,000

City Cost/County Workload to Hear Municipal Cases annual cost = \$2,833,000

Cities annual cost = \$9,633,000

#### POST-SENTENCE TREATMENT COMPLIANCE ADDITIONAL/CONTESTED HEARINGS PER CASE

These additional cases would also require an estimated 3 additional hearings at 15 minutes each and one, longer contested hearing estimated at 60 minutes. For all 12,000 cases, this would add judicial officer time and associated court costs with an overall estimated annual cost of \$18,487,000.

Counties annual cost = \$4,072,000

City Cost/County Workload to Hear Municipal Cases annual cost = \$2,880,000

Cities annual cost = \$11,535,000

### 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	4.1	4.0	4.1	4.0	4.0
Salaries and Wages	443,700	425,200	868,900	850,400	850,400
Employee Benefits	142,100	135,700	277,800	271,400	271,400
Professional Service Contracts	782,600		782,600		
Goods and Other Services	15,400	15,200	30,600	30,400	30,400
Travel	10,500	10,000	20,500	20,000	20,000
Capital Outlays	21,200	11,200	32,400	12,800	12,800
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services	1,596,000	1,596,000	3,192,000	3,192,000	3,192,000
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements	145,400	138,800	284,200	277,600	277,600
<b>Total \$</b>	<b>3,156,900</b>	<b>2,332,100</b>	<b>5,489,000</b>	<b>4,654,600</b>	<b>4,654,600</b>

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

#### 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					
Other	18,039,000	18,039,000	36,078,000	36,078,000	36,078,000
<b>Total \$</b>	<b>18,039,000</b>	<b>18,039,000</b>	<b>36,078,000</b>	<b>36,078,000</b>	<b>36,078,000</b>

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

#### 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	28,279,000	28,279,000	56,558,000	56,558,000	56,558,000
<b>Total \$</b>	<b>28,279,000</b>	<b>28,279,000</b>	<b>56,558,000</b>	<b>56,558,000</b>	<b>56,558,000</b>

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

#### III. D - FTE Detail

<i>Job Classification</i>	<i>Salary</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
Business Analyst	101,000	2.0	2.0	2.0	2.0	2.0
Senior Research Associate	111,500	1.0	1.0	1.0	1.0	1.0
Senior System Integrator	111,500		1.0	0.5	1.0	1.0
System Integrators/IT	118,750	1.1		0.6		
Supervisor/Manager						
<b>Total FTEs</b>		<b>4.1</b>	<b>4.0</b>	<b>4.1</b>	<b>4.0</b>	<b>4.0</b>

**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> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 056-Office of Public Defense
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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: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Preparation: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 04/13/2023
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 04/13/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 04/17/2023

## 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.*

E2SSB 5536 as amended by the House floor striking amendment (Taylor) establishes penalties for knowing possession of substances, and provides for treatment.

There is no fiscal impact to the Washington State Office of Public Defense (OPD). OPD does not provide public defense services in criminal matters at the trial court level.

### II. B - Cash receipts Impact

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

### II. C - Expenditures

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

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

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

NONE

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

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

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

NONE

### IV. C - Capital Budget Breakout

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 100-Office of Attorney General
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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: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 04/18/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 04/18/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 04/19/2023

## 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 Attorney General's Office (AGO), Agriculture & Health Division (AHD) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Commerce (Commerce). The change to the Growth Management Act (GMA) in Section 13 is not expected to affect Commerce Growth Management Services. The new program created in Section 16 for funding construction costs of Substance Use Disorder (SUD) treatment facilities is not expected to generate more than minimal legal work. Additionally, Commerce was assigned this fiscal note request for its role in estimating the impact of bills on local governments. This will not generate any legal work. Therefore, costs are not included in this request.

The AGO AHD has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Health (DOH). The enactment of this bill will not impact the provision of legal services to DOH. This bill would modify some requirements for opioid treatment program licensure (Section 15). DOH would be required to include stakeholders in rulemaking concerning health engagement hubs (Section 27). Additionally, DOH would be required to implement a statewide tool to map and direct individuals with behavioral health disorders to treatment and recovery support services locations. AHD assumes new legal services are nominal. Therefore, costs are not included in this request.

The AGO Corrections Division (COR) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Corrections (DOC). This bill increases the penalty for drug possession (of certain substances) to gross misdemeanor, and creates a pretrial diversion program for individuals charged with simple possession. Individuals convicted of gross misdemeanors serve any confinement time in local jails, not in DOC prisons. Additionally, diversion programs are administered at the local level. Although DOC does supervise certain individuals for misdemeanor convictions, any increase in such supervision is unlikely to increase DOR's need for legal services. Therefore, costs are not included in this request.

The AGO Revenue and Finance Division (REV) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Revenue (DOR). Section 21 creates an exemption for property used by a nonprofit organization in maintaining an approved and registered recovery residence. REV assumes this bill is unlikely to generate any requests for advice or need for litigations since the exemption will be administered by county assessors. Therefore, costs are not included in this request.

The AGO Children, Youth and Families (CYF) Division has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Children, Youth, and Families (DCYF). Section 22 of this bill requires DCYF to work with the Healthcare Authority (HCA) to develop a training for parents of children with substance use disorder. This will likely require additional legal assistance in FY 2024 to review the training for legal accuracy. Section 23 of this bill requires DCYF to make "opioid reversal medication" available to case workers and other employees who may come into contact with individuals who might experience an overdose. This will likely require additional legal assistance in FY 2024 to advise on new policies relating to DCYF employees carrying and using opioid reversal medications. CYF assumes any new legal services are nominal and costs are not included in this request.

The AGO Social & Health Services – Olympia Division (SHO) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing HCA. While this bill directs HCA to perform a study and work on several programs, SHO already advises the portion of HCA that handles the Substance Use Disorder (SUD) legal issues. This bill should not result in additional expansion of SUD program. SHO anticipates that the same program staff will continue providing advice and working on these issues. Therefore, costs are not included in this request.

### II. B - Cash receipts Impact

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

## **II. C - Expenditures**

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

## **Part III: Expenditure Detail**

### **III. A - Operating Budget Expenditures**

NONE

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

NONE

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

NONE

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

NONE

## **Part IV: Capital Budget Impact**

### **IV. A - Capital Budget Expenditures**

NONE

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

NONE

### **IV. C - Capital Budget Breakout**

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

NONE

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

NONE

## **Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 101-Caseload Forecast Council
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 04/17/2023
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 04/17/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 04/18/2023

## 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.*

**E2SSB 5536 (H-1919.1)**  
**CONCERNING POSSESSION OF CONTROLLED  
AND COUNTERFEIT SUBSTANCES AND  
LEGEND DRUGS**  
**101 – Caseload Forecast Council**  
**April 14, 2023**

**SUMMARY**

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

Section 1 States legislative intent.

Section 2 Amends RCW 69.50.4011 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of a Counterfeit Substance. Expands the definition of the offense to include Knowingly Possess and Uses a Counterfeit Substance in a Public Place. Additionally, establishes the offense as a misdemeanor. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Upon arraignment for a violation of subsection (1)(b) or (c) of this section, the court is required to determine whether the defendant has been advised by the defendant’s counsel about the pretrial diversion opportunity in Section 10 of the act.

Section 3 Amends RCW 69.50.4013 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of a Controlled Substance. Expands the definition of the offense to include Knowingly Possess and Uses a Controlled Substance in a Public Place. Additionally, establishes the offense as a misdemeanor. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Upon arraignment for a violation of subsection (1)(b) or (c) of this section, the court is required to determine whether the defendant has been advised by the defendant’s counsel about the pretrial diversion opportunity in Section 10 of the act.

Section 4 Amends RCW 69.50.4014 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” in Possession of 40 grams or less of Cannabis. Additionally, states the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Upon arraignment for a violation of subsection (1)(b) or (c) of this section, the court is required to determine whether the defendant has been advised by the defendant’s counsel about the pretrial diversion opportunity in Section 10 of the act.

Section 5 Amends RCW 69.41.030 by reinserting language that expires as of July 1, 2023, by adding the term “knowingly” for Possession of any Legend Drug and adds the use of

any legend drug in a public place by injection, inhalations, ingestion, or other means is unlawful. States the prosecutor is encouraged to divert such cases for assessment, treatment, or other services. Additionally states in lieu of booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and available services. Upon arraignment for a violation of this section involving knowing possession, or knowing possession and use in a public place, the court is required to determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity in Section 10 of the act.

- Section 6 Amends RCW 69.50.509 to add the term “knowingly” for probable cause that a controlled substance is being possessed.
- Section 7 New Section is added to chapter 43.43 RCW requiring the Washington State Patrol (WSP) to complete analysis for evidence for a suspected violation of RCW 69.50.4011(1)(b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) within 45 days of receipt of request. Additionally states WSPs failure to comply shall not constitute grounds for dismissal of a criminal charge.
- Section 8 Amends RCW 69.50.4121 by contracting the definition of a Class I civil infraction regarding drug paraphernalia. Additionally removes testing and analyzing from the definition of drug paraphernalia. Also adds public health supplies, smoking equipment, and drug testing equipment from prohibited distribution. States public health and syringe service program staff taking samples of substances and using drug testing equipment are exempt from arrest and prosecution.
- Section 9 Adds a new section to chapter 69.50 RCW limiting cities, towns, and counties and other municipalities to enacting only laws and ordinances relating to drug paraphernalia that are specifically authorized by the state and consistent with this chapter.
- Section 10 States nothing in the section prevents the defendant, with consent of the prosecuting attorney, from seeking to resolve charges under RCW 69.50.4011(1)(b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2)(b) or (c) (*eligible offenses*) through therapeutic courts or other alternatives to prosecution.
- Section 10 Additionally allows any defendant charged with an eligible offense to make a motion to participate in pretrial diversion and agree to waive his/her right to a speedy trial, if the motion is granted, subject to the following:
- (a) In any case where the defendant is only charged with a violation of an eligible offense, and has not been convicted of any offenses committed after the effective date of this section, the court shall grant the motion, continue the hearing, and refer the defendant to an applicable program.
  - (b) In not meeting criteria in (b), the court may grant the motion, continue the hearing, and refer the defendant to an applicable program.
  - (c) In all cases, the court may not grant the motion unless the prosecuting attorney consents to the defendant's participation in pretrial diversion. Additionally states the prosecuting attorney is strongly encouraged to agree to diversion when the defendant is only charged with an eligible offense, and in any case where the only additional charge is a non-felony crime not against a person.
- Section 10 Additionally establishes what information the court must provide to the defendant and defendant's counsel, prior to granting the motion to participate in pretrial diversion.
- Section 10 Additionally requires the applicable program to make a written report to the court stating its findings and recommendations after the biopsychosocial assessment if the

defendant pursues pretrial diversion and requires that the report is exempt from disclosure.

- Section 10 Additionally states the biopsychosocial assessment and recommended services or treatment must be provided at no cost for individuals found to be indigent, subject to appropriated funds.
- Section 10 Requires the court to inform the individual that under federal law the individual may not possess firearms or ammunition if the biopsychosocial assessment filed with the court indicates the individual has a substance use disorder (SUD).
- Section 10 States if the report recommends any treatment or services, the program must provide the court with regular updates at least monthly and that the updates are exempt from disclosure.
- Section 10 States if the report does not recommend any treatment or services, the defendant must complete an amount of community service as determined by the court (not to exceed 120 hours) in order to complete pretrial diversion.
- Section 10 States if it appears to the prosecuting attorney that the defendant is not substantially complying with recommended treatment, services, or community service (if applicable), the prosecuting attorney may make a motion for termination from pretrial diversion. The court is required to hold a hearing to determine if pretrial diversion should be terminated. If the court finds the defendant is not substantially complying with treatment or services, or completion of community service, the court must schedule the matter for further proceedings.

If the defendant successfully completes pretrial diversion, the charge or charges for eligible offenses must be dismissed if:

- The program's written report had included recommended treatment or services, the defendant completed pretrial diversion by having six months of substantial progress with assessment and recommended treatment or services and progress toward recovery goals; or
- If the program's written report did not include treatment recommendations, the defendant successfully completed pretrial diversion by completing the community service under subsection (8).

Section 11 Adds a new section to chapter 69.50 RCW that states the following:

- Punishment for individuals convicted in courts of limited jurisdiction for convictions of an eligible offense: if the individual agrees as a condition of probation to obtain a biopsychosocial assessment and participate with recommended treatment or services, or community service if no treatment is recommended, the court shall sentence the individual to a term of confinement of up to 90 days suspended for a period not to exceed one year.
- States a biopsychosocial assessment shall be prepared by an applicable program. The court is to determine whether the person shall be required to complete a alcohol and drug information school licensed or certified, or more sustained services provided by a licensed behavioral health care provider, peer counseling program, or other case management program.
- If the report does not recommend any treatment or services, the court shall order the defendant to complete an amount of community service not to exceed 120 hours.

- For individuals with recommended treatment/services ordered by the court, such shall be provided at no cost for sentenced individuals who have been found to be indigent, subject to appropriations.
- As a condition probation, the sentenced individual must substantially comply with the treatment or services recommendations of the biopsychosocial assessment.
- The prosecuting attorney shall make a motion for a hearing to consider sanctions if it appears the sentenced individual is not substantially complying in the recommend treatment, or not completing the court-ordered community service, if applicable. The court is to hold a hearing to determine if a sanction or revocation of the suspended sentence is warranted.
- If the court finds by a preponderance of evidence that the individual has willfully abandoned or consistently failed to substantially comply with treatment or fails to complete court-ordered hours of community service, the court shall use its discretion in determining an appropriate sanction.

Section 11 Additionally states that an individual sentenced under subsection (2) (courts of limited jurisdiction), may have their eligible conviction vacated as follows:

- (a) If the individual has six months of substantial compliance with recommended treatment or has completed community service hours, the individual must file proof of completion with the court. The prosecutor must make a motion to vacate. After verification, the court must terminate probation and enter an order vacating the conviction.
- (b) Regardless if treatment or community service is completed, if the individual has had no additional arrests, charges, or convictions two years after the conviction of the eligible offense, the prosecutor shall make a motion for the court to vacate the conviction and the court must terminate probation and vacate the conviction.

Section 12 Amends RCW 9.96.060 by adding a new subsection stating if a person convicted of an eligible offense has had no additional criminal arrests, charges, or convictions in the two years after the person's conviction of an eligible offense, the prosecutor shall make a motion to vacate of the conviction(s). Upon verification of successful completion, the court must grant the motion and vacate.

Section 16 Amends RCW 71.24.589 (Substance use disorders—Law enforcement assisted diversion—Pilot project) by changing the pilot program to a grant program. Includes language regarding civil liability.

Section 17 Amends RCW 71.24.590 (Opioid treatment—Program licensing or certification by department, department duties—Use of medications by program—Definition) by specifying opioid treatment. Additionally allows establishment of a mobile or fixed-site medication unit as part of a licensed opioid treatment program.

Section 18 Adds a new section to chapter 43.330 RCW establishing a program in the Department of Commerce to fund construction costs necessary to start up SUD treatment programs in regions of the state currently lacking access to such programs (subject to appropriations). States the funding must be used to increase the number of SUD treatment programs in underserved areas such as Central and Eastern Washington.

Section 19 Repeals RCW 10.31.115 (Drug Possession Referral to assessment and services) and 2021 c 311 s 13.

Section 20 Adds a new section to chapter 71.24 RCW that increases recovery housing (subject to appropriations.)

Section 21 Amends RCW 84.36.043 by adding approved recovery residences used by nonprofit organizations to taxation exemptions.

- Section 22 Adds a new section regarding tax preference.
- Section 23 Adds a new section to chapter 71.24 RCW requiring the Health Care Authority (HCA) to develop training for parents of children and transition age youth with SUDs.
- Section 24 Adds a new section to chapter 43.216 RCW requiring the Department of Children, Youth and Families to make opioid overdose reversal medication available for use by caseworkers or employees that may come in contact with individuals experiencing overdose and to make appropriate training available.
- Section 25 Adds a new section requiring HCA to develop and implement a data integration platform by June 30, 2024, to serve as a:
- common database for diversion efforts across the state;
  - data collection and management tool for practitioners; and
  - standardized definitions and practices.
- Section 26 Adds a new section to chapter 71.24 RCW requiring HCA to contract with the Washington State Institute for Public Policy to conduct a study of the long-term effectiveness of the recovery navigator program.
- Section 28 Adds a new section to chapter 71.24 RCW that requires HCA to implement a pilot program for health engagement hubs by August 1, 2024. States that subject to appropriations, HCA shall establish one rural hub and one urban hub. State the requirements of a health engagement hub.
- Section 29 Adds a new section to chapter 71.24 RCW that requires HCA to establish a grant program for providers of employment, training, certification, and other supportive programs designed to provide persons recovering from a SUD with employment opportunities. States the program give priority to programs that engage with black, indigenous, persons of color, and historically underserved communities (subject to appropriations.)
- Section 30 Adds a new section to chapter 71.24 RCW that requires HCA to collaborate with the Department of Social and Health Services to expand the Washington Recovery Helpline and the recovery readiness asset tool to provide dynamically updated statewide behavioral health treatment and recovery support services mapping tool (subject to appropriations.)
- Section 31 Adds a new section to chapter 71.24 that requires the HCA to do the following (subject to appropriations):
- Continue and expand efforts to provide opioid use disorder medication in jails;
  - Provide support funds to new and established recovery support services, including clubhouses throughout the state;
  - Award grants to equivalent number of crisis service providers to the west and east side of the Cascade mountains to establish 23-hour crisis relief center capacity;
  - Maintain MOUs with the Criminal Justice Training Commission to provide funding for community grants; and
  - Provide ongoing grants to law enforcement assistant diversion programs.
- Section 32 Adds a new section to chapter 71.24 RCW that requires HCA to convene a workgroup to recommend changes to systems, policies, and processes related to intake, screening, and assessment for SUD services with recommendations due by December 1, 2024.

Section 34 States Section 7 of the is act takes effect January 1, 2025.

Section 35 Amends 2021 c 311 s 29 to read Sections 8-10 and 12 of this act expire on July 1, 2023.

Section 36 States Sections 2-6, 8-12, and 35 of this act take effect July 1, 2023.

Section 37 Adds a severability clause.

Section 38 Adds a null and void clause.

## **EXPENDITURES**

### **Assumptions**

None.

### **Impact on the Caseload Forecast Council.**

None.

### **Background Information**

In February 2021, the Washington State Supreme Court ruled in *State v. Blake* that the state’s felony drug possession statute was unconstitutional. Prior to the Blake decision, Drug Possession was a felony offense ranked at Seriousness Level I on the Adult Felony Drug Grid and a Category C on the Juvenile Offender Sentencing Grid.

As a result of the court decision in February 2021, simple drug possession became non-criminal.

The 2021 Legislature addressed the issue and made changes to the statutes ruled unconstitutional by adding the term “knowingly” – effective as of May 13, 2021 (ESB 5476). The bill also lowered the prior felony possession offenses to misdemeanor offenses and encouraged prosecutors to divert cases for assessment, treatment, or other services. The possession offenses were removed from the Adult felony Drug Grid, and lowered to a Category E on the Juvenile Offender Grid.

ESB 5476 contained a sunset clause, making the changes expire as of July 1, 2023, at which time without any changes, simple possession would once again be unconstitutional and no longer a crime.

This bill reintroduces the term “knowingly” to the drug possession statutes and classifies simple possession of a controlled or counterfeit substance as a misdemeanor. Additionally reintroduces the term “knowingly” to the sale, possession or delivery of a legend drug. The sale, delivery, or possession with intent to sell or deliver a legend drug remains a Class B felony. Knowingly possessing a legend drug remains a misdemeanor offense.

### **Impact on prison and jail beds and community corrections population:**

This bill results in the possession of a controlled or counterfeit substances or legend drugs to remain criminal offenses.

Knowingly Possess a Counterfeit or Controlled Substance are currently misdemeanor offenses until July 1, 2023. Under the provision of this bill, the offenses remain misdemeanor offenses (rather than become decriminalized as of July 1, 2023.)

While the bill retains possession offenses as misdemeanors, it additionally states the prosecutor is encouraged to divert such cases to assessment, treatment or other services through the recovery navigator program. Law enforcement is encouraged to offer a referral to assessment and services in lieu of jail booking and referral to the prosecutor. For individuals who successfully completes pretrial diversion, their offense is vacated by the court.

In addition, regardless of whether the individual has completed recommended treatment or services, or the court-ordered community service, if the individual has had no additional arrests, charges, or criminal convictions in the two years after the individual's conviction for an eligible offense, their offense shall also be vacated by the court. It is unknown if confinement time will decrease from current practice. However, as misdemeanor offenses are limited to up to 90 days of confinement, any decreased bed needs would impact local jails only.

The provisions of the bill have no impact to DOC inmate population of supervision caseload.

### **Impact on Juvenile Rehabilitation and local beds**

This bill results in the possession of a controlled or counterfeit substances or legend drugs to remain criminal offenses.

Knowingly Possess a Counterfeit or Controlled Substance are currently misdemeanor offenses that remain misdemeanor offenses under the provisions of the bill (rather than become decriminalized as of July 1, 2023.) By adding the term “knowingly” to possession offenses, the offenses conform with the issue raised in the Blake decision, and will remain criminal offenses as of July 1, 2023. The bill amends 2021 c 311 s 29 by removing expiration of sections 15 and 16 of the bill, leaving Possession of a Counterfeit or Controlled Substance as a Category E offense.

The CFC does not collect data on misdemeanor offenses, and, therefore, cannot reliably estimate bed impacts resulting from the bill. However, the offenses impacted by the bill are punishable by a standard range term of Local Sanctions (0-30 days in local juvenile detention) for juveniles adjudicated for the offense. Therefore, population changes would only impact local juvenile detention beds.

As described above under Prison and Jail Bed Impacts, juveniles may also participate in pretrial diversion. Individuals may be terminated from the diversion program or if successful, charges may be vacated. It is unknown how many youth will participate in pretrial diversion and how many of those will have charges vacated, reducing confinement time in local juvenile detention facilities.

# Department of Revenue Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Expenditures from:**

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	5.1	1.3	3.2	1.3	1.3
<b>Account</b>					
GF-STATE-State    001-1	594,200	139,500	733,700	279,000	279,000
<b>Total \$</b>	594,200	139,500	733,700	279,000	279,000

**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: Yvonne Walker	Phone: 60-786-7841	Date: 04/12/2023
Agency Preparation: Kari Kenall	Phone: 60-534-1508	Date: 04/13/2023
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 04/13/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 04/14/2023

Request # 5536-6-1

## 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.*

Note: This fiscal note reflects House amendment AMH TAYL H1919.1 to E2SSB 5536, 2023 Legislative Session.

This fiscal note only addresses section 21 of the bill, which impacts the Department of Revenue (department).

COMPARISON OF THE PROPOSED AMENDMENT WITH THE ENGROSSED SECOND SUBSTITUTE BILL:

The changes in the proposed amendment do not impact section 21.

#### CURRENT LAW:

The law exempts nonprofit organizations owning or leasing real and personal property used in providing emergency or transitional housing to people who are homeless and low-income or victims of domestic violence. The law limits the exemption to organizations with a limited length-of-stay policy. For emergency housing and transitional housing that is 60 days or two-years respectively.

#### PROPOSAL:

This bill expands the property tax exemption for nonprofit organizations owning or leasing real and personal property used in providing emergency or transitional housing to people who are homeless and low-income or victims of domestic violence to include approved registered recovery residences. An approved registered recovery residence does not require a limited length-of-stay policy. In addition, the home must:

- Register as a recovery residence with the Washington Health Care Authority.
- Involve peers in the governance of the recovery residence.
- Integrate recovery support into the daily activities.
- Maintain an environment that is home-like, promotes healthy recovery, and is free from alcohol and illicit drugs.
- Not charge more for the housing than the actual cost of operating and maintaining the housing.
- Ensure the property tax exemption benefits the nonprofit organization when the nonprofit organization is leasing the property.

This bill limits the exemption to taxes levied for collection in calendar years 2024 through 2033.

#### EFFECTIVE DATE:

The expanded property tax exemption (Section 20) takes effect beginning with property taxes due for calendar year 2024.

### 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.*

#### ASSUMPTIONS:

- There are approximately 450 recovery residences.
- Total estimated real property value of recovery residences is \$242,500,000.
- Total estimated personal property value of recovery residences is \$830,000.
- Approximately 75% of qualified residences would apply and receive property tax exemption in calendar year 2024 with an additional 4% each calendar year after accounting for added participation of existing residences and new residences established.
- Analysis of local property tax levies show that with a new property tax exemption, 90% of local taxes would shift to non-exempt property owners and 10% of local taxes would decrease revenues for local taxing districts.
- Based on five years of state property tax collections, 52.35% of state property tax collections occur in April and 47.65%

Request # 5536-6-1

occur in October. When converting from calendar year to fiscal year, this estimate assumes revenues shifts and losses follow this trend.

DATA SOURCES:

- Washington State Health Care Authority, Registered recovery residences
- Washington Center for Real Estate Research, University of Washington, quarter 3, 2022, median resale price by county
- Department of Revenue, Property tax division data
- Department of Revenue, State School Levy forecast model, November 2022

REVENUE ESTIMATES:

The Economic and Revenue Forecast Council predicts the state property tax levy remains below the \$3.60 limit throughout the 2027-29 biennium. This expanded exemption results in a shift and no loss to the state levy.

PROPERTY TAX SHIFTS:

This legislation results in a state levy shift to other taxpayers of an estimated \$198,000 for fiscal year 2024 and \$390,000 in fiscal year 2025, the first full fiscal year.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000): None

Local Government, if applicable (cash basis, \$000):

- FY 2024 - (\$ 32)
- FY 2025 - (\$ 65)
- FY 2026 - (\$ 71)
- FY 2027 - (\$ 77)
- FY 2028 - (\$ 84)
- FY 2029 - (\$ 91)

DETAIL OF REVENUE IMPACT FOR PROPERTY TAX BILLS, Calendar Year Basis

State Government, Impact on Revenues (\$000): None

State Government, (\$000), Shift of Tax Burden:

- CY 2024 - \$ 380
- CY 2025 - \$ 400
- CY 2026 - \$ 430
- CY 2027 - \$ 450
- CY 2028 - \$ 480
- CY 2029 - \$ 510

Local Government, Impact on Revenues (\$000) :

- CY 2024 - (\$ 60)
- CY 2025 - (\$ 70)
- CY 2026 - (\$ 70)

CY 2027 - (\$ 80)  
 CY 2028 - (\$ 90)  
 CY 2029 - (\$ 90)

Local Government, (\$000), Shift of Tax Burden:

CY 2024 - \$ 1,070  
 CY 2025 - \$ 1,170  
 CY 2026 - \$ 1,280  
 CY 2027 - \$ 1,400  
 CY 2028 - \$ 1,540  
 CY 2029 - \$ 1,680

**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.*

**FIRST YEAR COSTS:**

The department will incur total costs of \$594,200 in fiscal year 2024. These costs include:

- Labor Costs - Time and effort equate to 5.07 FTEs.
  - Create a special notice and update forms and publications.
  - Receive, process, and approve or deny applications for exemption from nonprofit organizations maintaining recovery residences.
  - Amend one administrative rule.

**SECOND YEAR COSTS:**

The department will incur total costs of \$139,500 in fiscal year 2025. These costs include:

- Labor Costs - Time and effort equate to 1.3 FTEs.
  - Receive, process, and approve or deny applications or renewals for exemption from nonprofit organizations maintaining recovery residences.

**ONGOING COSTS:**

Ongoing costs for the 2025-27 biennium equal \$279,000 and include similar activities described in the second-year costs. Time and effort equate to 1.3 FTEs.

**Part III: Expenditure Detail**

**III. A - Expenditures by Object Or Purpose**

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	5.1	1.3	3.2	1.3	1.3
A-Salaries and Wages	351,700	88,500	440,200	177,000	177,000
B-Employee Benefits	116,100	29,200	145,300	58,400	58,400
E-Goods and Other Services	76,200	13,900	90,100	27,800	27,800
G-Travel	15,000	3,900	18,900	7,800	7,800
J-Capital Outlays	35,200	4,000	39,200	8,000	8,000
<b>Total \$</b>	<b>\$594,200</b>	<b>\$139,500</b>	<b>\$733,700</b>	<b>\$279,000</b>	<b>\$279,000</b>

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EMS BAND 4	126,619	0.0		0.0		
MGMT ANALYST4	73,260	0.0		0.0		
PROPERTY AND ACQUISITION SJ	68,076	4.0	1.3	2.7	1.3	1.3
PROPERTY AND ACQUISITION SJ	77,028	1.0		0.5		
TAX POLICY SP 2	75,120	0.0		0.0		
TAX POLICY SP 3	85,020	0.0		0.0		
TAX POLICY SP 4	91,524	0.0		0.0		
WMS BAND 3	107,685	0.0		0.0		
<b>Total FTEs</b>		5.1	1.3	3.2	1.3	1.3

**III. C - 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

**Part V: New Rule Making Required**

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

Should this legislation become law, the department will use the expedited rulemaking process to amend WAC 458-16-320, titled: "Emergency or transitional housing." Persons affected by this rulemaking would include nonprofits that provide housing for vulnerable populations.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 225-Washington State Patrol
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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	2.0	2.0	2.0	2.0	2.0
<b>Account</b>					
General Fund-State      001-1	813,000	450,000	1,263,000	900,000	900,000
<b>Total \$</b>	813,000	450,000	1,263,000	900,000	900,000

### 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: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Preparation: Kendra Sanford	Phone: 360-596-4080	Date: 04/13/2023
Agency Approval: Mario Buono	Phone: (360) 596-4046	Date: 04/13/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 04/13/2023

## 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 proposed legislation will have a fiscal impact on the Washington State Patrol (WSP).

The amended engrossed second substitute version of the proposed legislation removes the Administrative Office of the Court (AOC) requirement to cooperate with us to collect certain violation data, and other changes that do not change our previous fiscal impact assumptions.

Section 2 adds “knowingly” to the current language for possessing a counterfeit substance and makes creating, delivering, or knowingly possessing a counterfeit substance a misdemeanor rather than the previous standing as a Class B or C felony. It also encourages offering a referral to assessment and services available under RCW 10.31.110, 36.28A.450, 71.24.589, and 71.24.115 in lieu of a felony booking and referral to prosecution.

Section 3 adds the word “knowingly” to possessing a controlled substance, changes the offense from a class C felony to a misdemeanor, and encourages similar diversion recommendations referenced in Section 2.

Sections 4 and 5 add “knowingly” to possessing 40g or less of cannabis or any legend drug, and encourages similar diversion recommendations referenced in Section 2.

Section 6 adds “knowingly” to the current language for possessing a controlled substance.

New Section 7 requires the WSP Forensic Laboratory Services Bureau, subject to the availability of funds appropriated for this purpose, to aim to complete the necessary analysis of any evidence submitted for suspected violations of RCWs 69.50.4011(1)(b), 69.50.4013, and 69.41.030 within 45 days of receipt of the request for analysis. The section also includes a clause stating that failure of the WSP to comply with the section shall not constitute grounds for dismissal of a criminal charge.

Section 8 removes gifting of drug paraphernalia as a class I civil infraction and removes testing or analyzing as functional use of equipment that would constitute a definition of drug paraphernalia. It also expands the exception of supplies allowed to be distributed, and adds an exemption from arrest for public health and syringe service program staff taking samples of substances for the purpose of analyzing the composition of the substance or detecting the presence of certain substances.

New Section 11 adds mandatory treatment options as a condition of probation to the sentencing guidelines of counterfeit and controlled substances and legend drugs.

Section 12 allows individuals who successfully complete a mandatory treatment program to request that related convictions be dismissed or vacated by providing proof of successful completion to the court. The court must then dismiss or vacate the convictions. It also adds that if an individual has not been arrested, charged, or convicted in two years following the person's conviction for certain violations, the court shall enter an order vacating the individual's conviction.

New Section 13(2) of the new engrossed substitute version removes the AOC requirement to cooperate with the WSP to collect related violation data and information.

Section 19 repeals RCW 10.31.115.

New Section 27 in the engrossed second substitute version adds to and modifies the scope of a recovery navigator program.

New Section 34 in the engrossed second substitute version makes New Section 7 effective January 1, 2025.

New Section 36 makes Sections 2, 6, 8-12, and 35 effective July 1, 2023.

New Section 37 in the engrossed second substitute version adds a null and void clause if this act is not funded.

## **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 anticipate needed training on changes to existing law and introduction of new requirements will be minimal and can be absorbed under our current funding. We expect that vacating actions resulting from the proposed legislation will have minimal impact to the WSP Criminal Records Division and will be supported by current resources.

We expect the changes in definition for possession of a counterfeit substance, controlled substance, and legend drug without a valid prescription, and the requirement to complete the necessary analysis of submitted evidence for suspected violations of RCWs 69.50.4011, 69.50.4013, and 69.41.030 within 45 days to have a significant impact on the WSP Crime Laboratory Division (CLD).

The CLD's current testing capacity for seized drug samples is approximately 9,000 per year, with a current turnaround time of approximately 60 days from the receipt of the request to the completion of testing. We expect that the changes in definition will increase the number of samples for analysis to 14,000 or more per year.

In order to meet the demands of the expected increase in requests for testing, and also complete the testing analysis within the 45 days required in the proposed legislation, we need two full-time seized drug analysts and the necessary testing equipment including Gas Chromatography Mass Spectrometers (GC/MS), stereomicroscopes, polarized light microscopes (PLM), analytical balances, and consumable testing supplies including glassware, solvents, and packaging material. We expect that it will take us approximately 18 months to meet the 45-day turnaround due to the time needed to recruit, hire and train the new Forensic Scientist 3s. We expect to be able to meet the effective date for this requirement of January 1, 2025, however if the requests for testing increase more than expected, we may need to request additional resources in order to meet the new turnaround time.

The estimated first year costs are:

1. \$258,000 – salaries and benefits for two Forensic Scientist 3 FTEs for Materials Analysis
2. \$50,000 – consumable testing supplies
3. \$20,000 – position support costs (standard supplies, enterprise agreement true-up, non-capitalized equipment/software etc.)
4. \$320,000 – two GC/MS
5. \$10,000 – two Stereomicroscopes
6. \$20,000 – two PLM
7. \$5,000 – two electronic balances
8. \$20,000 – two workstations
9. \$110,000 – Agency Indirect Costs

The estimated ongoing costs are:

1. \$258,000 – salaries and benefits for two Forensic Scientist 3 FTEs for Materials Analysis
2. \$50,000 – consumable testing supplies
3. \$18,000 – position support costs (standard supplies, ongoing enterprise agreement, non-capitalized equipment/software etc.)
4. \$13,000 – ongoing equipment maintenance agreements
5. \$2,000 – ongoing capitalized equipment/software
6. \$109,000 – Agency Indirect Costs

Our total estimated costs are:

Fiscal Year 2024 - \$813,000

Fiscal Year 2025 and ongoing - \$450,000

There is also the possibility of an increase in Latent Print and DNA testing requests as a result of the changes in definition in an effort to demonstrate knowing possession. This would negatively impact the case turn-around times in these functional areas, particularly in DNA as the WSP is currently under a legislatively mandated 45-day turn-around for Sexual Assault Kit analysis that could be impacted by having to test touch DNA in drug possession cases. If this occurs, we will seek funding in a future budget period for the necessary personnel to meet any increased demand in those sections.

We base estimated salary expenditures on current levels for the positions requested per published salary schedules, plus any applicable incentive or assignment pay. We compute estimated benefits expenditures based on federal or state mandated rates plus state provided amounts for health insurance and workers’ compensation insurance. We assume that any increases in these rates or amounts will be covered by legislation establishing the increase.

We compute estimated support expenditures such as supplies & materials, communications, computer costs (hardware and software), vehicle and vehicle operating costs, among others, using average costs to support agency FTEs. We adjust the estimated support costs to reflect the needs of individual divisions or positions within the agency.

We base our estimate for agency indirect costs on the federal indirect cost rate of 33.41 percent approved by the U.S. Department of Transportation on February 14, 2023. This rate is effective July 1, 2023, and is used on all estimates completed after the approval date. We apply this indirect cost rate percentage to all categories of expenditure with only two exceptions: capital equipment and expenditures after \$25,000 of each projected contract. Indirect costs include, but are not limited to, computer and telecommunications support, payroll processing, vendor payments, general accounting, procurement administration, inventory control, and human resource management.

### 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	813,000	450,000	1,263,000	900,000	900,000
<b>Total \$</b>			813,000	450,000	1,263,000	900,000	900,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.0	2.0	2.0	2.0	2.0
A-Salaries and Wages	192,000	192,000	384,000	384,000	384,000
B-Employee Benefits	66,000	66,000	132,000	132,000	132,000
C-Professional Service Contracts					
E-Goods and Other Services	63,000	74,000	137,000	148,000	148,000
G-Travel	5,000	5,000	10,000	10,000	10,000
J-Capital Outlays	377,000	4,000	381,000	8,000	8,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-Agency Indirect Costs	110,000	109,000	219,000	218,000	218,000
<b>Total \$</b>	<b>813,000</b>	<b>450,000</b>	<b>1,263,000</b>	<b>900,000</b>	<b>900,000</b>

**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
Forensic Scientist 3	96,156	2.0	2.0	2.0	2.0	2.0
<b>Total FTEs</b>		<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>

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

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 227-Criminal Justice Training Commission
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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
<b>Account</b>					
General Fund-State      001-1	150,000	0	150,000	0	0
<b>Total \$</b>	150,000	0	150,000	0	0

### 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: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Preparation: Brian Elliott	Phone: 206-835-7337	Date: 04/17/2023
Agency Approval: Brian Elliott	Phone: 206-835-7337	Date: 04/17/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 04/18/2023

## 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.*

Section 27 (7)(a) states the Criminal Justice Training Commission, in consultation with the authority and other key stakeholders, shall conduct an assessment of the current status toward achieving the statewide implementation of recovery navigator programs in fidelity with core principles.

Section 27 (7)(b) states by December 1, 2023, the Criminal Justice Training Commission shall submit to the governor and both chambers of the legislature a report of its findings and recommendations on administrative and legislative steps that will facilitate the achievement of the statewide adoption of recovery navigator programs operating in fidelity with core principles.

Section 31(4) requires the Health Care Authority to maintain a memorandum of understanding with the criminal justice training commission to provide ongoing funding for community grants pursuant to RCW 36.28A.450; and

Section 31 (5) provide ongoing grants to law enforcement assistant diversions programs under RCW 71.24.589.

RCW 36.28A.450 relates to the Washington Association of Sheriffs and Police Chiefs to develop and implement a grant program aimed at supporting local initiatives to properly identify criminal justice system-involved persons with substance use disorders and other behavioral health needs and engage those persons with therapeutic interventions and other services, the efficacy of which have been demonstrated by experience, peer-reviewed research, or which are credible promising practices, prior to or at the time of jail booking, or while in custody.

Funding received from the Health Care Authority for this grant program will be passed through to the Washington Association of Sheriffs and Police Chiefs for the grant program.

### II. B - Cash receipts Impact

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

This bill has no cash receipt impact.

### II. C - Expenditures

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

Section 27 (7) (a) and (b) regarding the Criminal Justice Training Commission to conduct an assessment and prepare and submit a report:

The Criminal Justice Training Commission will enter into contract with an expert qualified to conduct the assessment and prepare the required report. The estimated contractor expense is \$150,000 in fiscal year 2024.

Per Section 31(4) The Washington State Criminal Justice Training Commission, Health Care Authority, and Washington Association of Sheriffs and Police Chiefs will enter into a contract for the grant program. The Health Care Authority will provide funds to the Criminal Justice Training Commission and the Criminal Justice Training Commission will provide these funds to the Washington Association of Sheriffs and Police Chiefs for the grant program.

There is no expenditure impact to the Criminal Justice Training Commission as expenditures to the Washington Association of Sheriffs and Police Chiefs will be offset by funds received from Health Care Authority recorded as a recovery of

expenditures.

### 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	150,000	0	150,000	0	0
<b>Total \$</b>			150,000	0	150,000	0	0

#### 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	150,000		150,000		
E-Goods and Other Services					
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-					
<b>Total \$</b>	150,000	0	150,000	0	0

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

NONE

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

NONE

### Part IV: Capital Budget Impact

#### IV. A - Capital Budget Expenditures

NONE

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

NONE

#### IV. C - Capital Budget Breakout

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 300-Department of Social and Health Services
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
General Fund-Federal 001-2	114,000	145,000	259,000	158,000	158,000
<b>Total \$</b>	114,000	145,000	259,000	158,000	158,000

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.0	4.0	3.5	2.0	2.0
<b>Account</b>					
General Fund-State 001-1	403,000	512,000	915,000	560,000	560,000
General Fund-Federal 001-2	114,000	145,000	259,000	158,000	158,000
<b>Total \$</b>	517,000	657,000	1,174,000	718,000	718,000

### 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: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Preparation: Teresa Elliott	Phone: 360-902-8177	Date: 04/14/2023
Agency Approval: Dan Winkley	Phone: 360-902-8236	Date: 04/14/2023
OFM Review: Arnel Blancas	Phone: (360) 000-0000	Date: 04/14/2023

## 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.*

Section 30 - Subject to funding provided for this specific purpose, the Health Care Authority (HCA) must collaborate with the Department of Social and Health Services (DSHS) to expand the Washington Recover Help Line. This includes expanding the recovery readiness asset tool to provide a dynamically updated statewide behavioral health treatment and recovery support services mapping tool that includes a robust resource database. For those seeking services this database referral system will be incorporated within the locator tool to help facilitate the connection between an individual and a facility that is currently accepting new referrals. The tool must include dual interface capability, one for public access and one for internal use and management.

### 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.*

It is assumed that the provisions of this bill would be eligible for federal funding based on the DSHS cost allocation plan for Administration (program 110).

### 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.*

Research and Data Analysis (RDA) will need four FTEs during the first two years to develop the system enhancements necessary to provide the services required of this legislation. Two FTEs will be needed in year three and ongoing to provide maintenance and updates to the system. The hiring process will take place during the first year and it is expected to take several months to find the right candidates to fulfill each role.

The positions and roles for the Geographic Information System (GIS) are as follows:

The Senior GIS/IT Application Developer will be the lead web GIS application developer for the full development life cycle of a new dynamic web mapping tool and referral system, with dual interface capability, that supports statewide behavioral health treatment and recovery support services.

The Journey GIS/IT Application Developer will be a co-developer and back-up for the full development life cycle of a new dynamic web mapping tool and referral system, with dual interface capability, that supports statewide behavioral health treatment and recovery support services.

The GIS Data Engineer will lead the full development life cycle for a geo-enabled resource database to be integrated with the dynamic web mapping tool and referral system.

The GIS Specialist will manage cartographic representation of the map data and automate and oversee routine Geo processes such as geocoding, updating, editing, and publishing web map services from the geo-enabled databases to be used by the web mapping tool and referral system. The GIS Specialist will also serve as a back-up to the GIS Data Engineer.

The Technical Project Manager will oversee the fulfillment of the agile development, implementation, and on-going support of the behavioral health treatment and recovery support services web mapping tool and referral system; coordinate and coach development team members; and understand the needs and requirements of the project.

The two ongoing FTEs will provide maintenance and operations as well as ongoing enhancements as requested by program managers and stakeholders. This includes a combination of:

- 1) Application development work for ongoing development of the web mapping tool and referral system to support statewide behavioral health treatment as well as recovery support services.
- 2) Data Management to ensure ongoing updates, geocoding, quality control, and publishing of the data from various providers.
- 3) Supervisory responsibilities.

### 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	403,000	512,000	915,000	560,000	560,000
001-2	General Fund	Federal	114,000	145,000	259,000	158,000	158,000
<b>Total \$</b>			517,000	657,000	1,174,000	718,000	718,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.0	4.0	3.5	2.0	2.0
A-Salaries and Wages	348,000	457,000	805,000	450,000	450,000
B-Employee Benefits	119,000	157,000	276,000	224,000	224,000
C-Professional Service Contracts					
E-Goods and Other Services	19,000	26,000	45,000	26,000	26,000
G-Travel					
J-Capital Outlays	18,000		18,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service	1,000	2,000	3,000	2,000	2,000
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	12,000	15,000	27,000	16,000	16,000
9-					
<b>Total \$</b>	517,000	657,000	1,174,000	718,000	718,000

#### 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
IT APP DEVELOPMENT-JOURNEY	102,540	0.5	1.0	0.8	0.5	0.5
IT APP DEVELOPMENT-SENIOR I MANAGER	138,430	0.5	0.5	0.5	0.2	0.2
IT APP DEVELOPMENT-SENIOR/SPECIA ST	118,721	1.0	1.0	1.0	0.5	0.5
IT DATA MANAGEMENT-JOURNEY	107,682	0.3	0.5	0.4	0.5	0.5
IT DATA MANAGEMENT-SENIOR/SPECIA ST	113,059	0.8	1.0	0.9	0.4	0.4
<b>Total FTEs</b>		3.0	4.0	3.5	2.0	2.0

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

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative & Support Services (110)	517,000	657,000	1,174,000	718,000	718,000
<b>Total \$</b>	517,000	657,000	1,174,000	718,000	718,000

### 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

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 360-University of Washington
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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.

<b>Legislative Contact:</b> Yvonne Walker	<b>Phone:</b> 360-786-7841	<b>Date:</b> 04/12/2023
<b>Agency Preparation:</b> Charlotte Shannon	<b>Phone:</b> 2066858868	<b>Date:</b> 04/18/2023
<b>Agency Approval:</b> Charlotte Shannon	<b>Phone:</b> 2066858868	<b>Date:</b> 04/18/2023
<b>OFM Review:</b> Ramona Nabors	<b>Phone:</b> (360) 742-8948	<b>Date:</b> 04/19/2023

## 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.*

5536 E2S SB AMH TAYL H1919.1 relates to the justice system and behavioral health responses for persons experiencing circumstances that involve controlled substances, counterfeit substances, legend drugs, and drug paraphernalia.

The amendment continues to remove the prior Section 17 from the E2S version of the bill, which drove the University of Washington's (UW) prior indeterminate fiscal impacts for the E2S version of the bill. Therefore the UW assesses no fiscal impacts for this version.

### II. B - Cash receipts Impact

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

### II. C - Expenditures

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

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

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

NONE

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

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

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

NONE

### IV. C - Capital Budget Breakout

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

NONE

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

NONE

## **Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 376-The Evergreen State College
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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	0.0	0.0	0.0	0.6	0.0
<b>Account</b>					
General Fund-State      001-1	0	0	0	71,110	204,037
<b>Total \$</b>	0	0	0	71,110	204,037

### 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: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Preparation: Catherine Nicolai	Phone: (360) 664-9087	Date: 04/13/2023
Agency Approval: Dane Apalategui	Phone: 360-867-6517	Date: 04/13/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 04/17/2023

## 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.*

Sec. 26 of 5536 E2SSB AMH TAYL directs the Health Care Authority to contract with the Washington State Institute for Public Policy (WSIPP) to "conduct a study of the long-term effectiveness of the recovery navigator program under RCW 71.24.115." WSIPP "shall collaborate with the authority, the law enforcement assisted diversion national support bureau, and the substance use recovery services advisory committee under RCW 71.24.546 on the topic of data collection and to collaborate with the authority and substance use recovery services advisory committee under RCW 71.24.546 on the topic of data collection and to determine the parameters of the report, which shall include recommendations, if any, for modification and improvement of the recovery navigator program. The law enforcement assisted diversion national support bureau may supplement the report with additional recommendations to improve the recovery navigator program by enhancing its ability to provide a viable, accepted, community-based care alternative to jail and prosecution. The authority shall cooperate with the Washington state institute for public policy to provide data for this report."

Reports are due by June 30, 2028, June 30, 2033, and June 30, 2038.

### 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.*

Sec. 26 of E2SSB 5536 AMH TAYL directs the Health Care Authority to contract with WSIPP to complete a study. The cost detailed below is what WSIPP would expect to be covered in a contract with HCA.

In order to complete the study outlined in Sec. 26, WSIPP would assign the following resources:

FY 27:

- 0.34 FTE Researcher to scope the study, submit the Washington State Institutional Review Board (WSIRB) application, submit data requests, and begin a literature review.
- 0.06 FTE Methods Review to develop a study plan.
- Assumes \$1,750 in WSIRB fees.

FY 28:

- 0.73 FTE Researcher to complete a literature review, develop the research design, process data, analyze the data, and write the report.
- 0.06 FTE Methods Review for methodological review.
- 0.06 FTE Editing/Publication for report publication.
- Assumes \$50,000 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

FY 32—Total cost for FY32 is \$76,628: \$53,324 in salaries, \$14,844 in benefits, \$8,210 in goods and services, and \$250 in WSIRB fees.

- 0.34 FTE Researcher to scope the study, submit the Washington State Institutional Review Board (WSIRB) application, submit data requests, and begin a literature review.
- 0.06 FTE Methods Review to develop a study plan.
- Assumes \$250 in WSIRB fees.

FY33—Total cost for FY33 is \$199,256: \$113,864 in salaries, \$31,793 in benefits, \$21,349 in goods and services, and \$32,000 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

-0.73 FTE Researcher to complete a literature review, develop the research design, process data, analyze the data, and write the report.

-0.06 FTE Methods Review for methodological review.

-0.06 FTE Editing/Publication for report publication.

-Assumes \$32,000 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

FY37—Total cost for FY37 is \$84,574: \$58,874 in salaries, \$16,389 in benefits, \$9,062 in goods and services, and \$250 in WSIRB fees.

-0.34 FTE Researcher to scope the study, submit the Washington State Institutional Review Board (WSIRB) application, submit data requests, and begin a literature review.

-0.06 FTE Methods Review to develop a study plan.

-Assumes \$250 in WSIRB fees.

FY38—Total cost for FY38 is \$221,611: \$125,715 in salaries, \$35,102 in benefits, \$23,744 in goods and services, and \$36,800 in data fees for Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

-0.73 FTE Researcher to complete a literature review, develop the research design, process data, analyze the data, and write the report.

-0.06 FTE Methods Review for methodological review.

-0.06 FTE Editing/Publication for report publication.

-Assumes \$36,800 in data fees for the Research and Data Analysis (RDA) data and \$250 in WSIRB fees.

The total cost to complete the assignment would be \$857,218.

\*Goods and other services include a 12% indirect rate for The Evergreen State College.

**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	0	0	0	71,110	204,037
<b>Total \$</b>			0	0	0	71,110	204,037

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years				0.6	
A-Salaries and Wages				48,297	103,130
B-Employee Benefits				13,444	28,796
C-Professional Service Contracts					
E-Goods and Other Services				7,619	21,861
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-Data/WSIRB fees				1,750	50,250
<b>Total \$</b>	0	0	0	71,110	204,037

**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
Editing/Publication	107,544				0.0	
Methods Review	120,984				0.1	
Researcher	107,544				0.5	
<b>Total FTEs</b>					0.6	0.0

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

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

Revised

<b>Bill Number:</b> 5536 E 2S SB AMH TAYL H1919.1	<b>Title:</b> Controlled substances	<b>Agency:</b> 468-Environmental and Land Use Hearings Office
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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: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 04/20/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 04/20/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 04/20/2023

## 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.*

Revised to include 10 year analysis.

No changes to anticipated impacts from earlier versions of this bill.

The only section that deals with the Growth Management Act (GMA) is Section 15.

Section 15. RCW 36.70A.200 is amended to include an expanded definition of “essential public facilities” under (1)(a) to include opioid treatment programs including both mobile and fixed-site medication units, recovery residences, and harm reduction programs excluding safe injection sites. Subsection (d) defines “harm reduction programs.”

This change in definition does not change the fundamental character of existing public facilities in a way that would result in additional appeals to the Growth Management Hearings Board (GMHB) under the GMA.

NO FISCAL IMPACT to the GMHB anticipated.

### II. B - Cash receipts Impact

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

### II. C - Expenditures

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

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

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

NONE

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

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

**Bill Number:** 5536 E 2S SB  
AMH TAYL  
H1919.1

**Title:** Controlled substances

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

### Legislation Impacts:

- Cities:** Approximately \$3,270,000 to update comprehensive plans; approximately \$442,860 to provide training to law enforcement officers on modified criminal offenses, referral requirements and other procedures; indeterminate expenditure impact due to change in demand for jail beds as a result of pretrial diversion program, new sentencing requirements; indeterminate expenditure impact resulting from increased demand for services from alternative response and arrest and jail alternative programs; approximately \$125,084 in reduced property tax revenue through 2029 as a result of new exemption; indeterminate increased law enforcement expenditures as a result of processing additional firearms surrenders; indeterminate expenditure impact resulting from local government employee participation in recovery navigator program policy coordinating groups
- Counties:** Approximately \$1,400,000 to update comprehensive plans; approximately \$134,400 to provide training to law enforcement officers on modified criminal offenses, referral requirements and other procedures; indeterminate expenditure impact on prosecutors and public defenders as a result of new sentencing requirements; indeterminate expenditure impact due to change in demand for jail, juvenile detention beds as a result of pretrial diversion program, new sentencing requirements; indeterminate expenditure impact resulting from increased demand for services from alternative response and arrest and jail alternative programs; approximately \$153,770 in reduced property tax revenue through fiscal year 2029 as a result of new exemption; indeterminate increased law enforcement expenditures as a result of processing additional firearms surrenders; indeterminate expenditure impact resulting from local government employee participation in recovery navigator program policy coordinating groups
- Special Districts:** Approximately \$141,146 in reduced property tax revenue through fiscal year 2029 as a result of new exemption
- Specific jurisdictions only:**
- Variance occurs due to:**

## Part II: Estimates

- No fiscal impacts.**
- Expenditures represent one-time costs:** Approximately \$4,670,000 to update comprehensive plans; approximately \$577,200 to train local law enforcement officers on modified criminal offenses, referral requirements and other procedures
- Legislation provides local option:**
- Key variables cannot be estimated with certainty at this time:** Net change in demand for prosecutor, public defender time, and jail, juvenile detention beds that may result from diversion language in section 10 and sentencing requirements in section 11; change in demand for services from alternative response and arrest and jail alternative programs; number of additional firearms surrenders the new provisions of sections 10 and 11 would require, amount of law enforcement time required to process such a surrender in a given case; time required for participation in recovery navigator program policy coordinating groups

### Estimated revenue impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	(9,530)	(19,354)	(28,884)	(44,079)	(52,121)
County	(11,716)	(23,800)	(35,516)	(54,185)	(64,069)
Special District	(10,754)	(21,846)	(32,600)	(49,736)	(58,810)
<b>TOTAL \$</b>	(32,000)	(65,000)	(97,000)	(148,000)	(175,000)
<b>GRAND TOTAL \$</b>					(420,000)

**Estimated expenditure impacts to:**

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	1,725,360	1,080,000	2,805,360	907,500	
County	534,400	500,000	1,034,400	500,000	
<b>TOTAL \$</b>	2,259,760	1,580,000	3,839,760	1,407,500	
<b>GRAND TOTAL \$</b>					<b>5,247,260</b>

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

### Part III: Preparation and Approval

Fiscal Note Analyst: James Vogl	Phone: 360-480-9429	Date: 04/19/2023
Leg. Committee Contact: Yvonne Walker	Phone: 360-786-7841	Date: 04/12/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 04/19/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 04/21/2023

## **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 E2SSB 5536 AMH TAYL H1919.1 and compares it to the impact of E2SSB 5536.

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

The amendment to the engrossed second substitute bill would specify that knowing possession and use in public of counterfeit or legend drugs, and under certain circumstances, controlled substances is a criminal offense. Both knowing possession and use in public of counterfeit or controlled substances would be classified as misdemeanors in the current bill version, while in the previous bill version, the offenses of knowing possession of counterfeit and controlled substances were classified as gross misdemeanors.

The amendment would also reintroduce a provision included in earlier bill versions specifying that the state of Washington would fully occupy and preempt the field of drug paraphernalia regulation within the borders of the state, and would include modified language concerning both the pretrial diversion program detailed in section 10 and the new sentencing requirements detailed in section 11. Language concerning the oversight of recovery navigator programs would also be modified by the amendment.

Finally, the amendment would remove the language creating a right to court-appointed counsel under certain conditions for parents, guardians or custodians in parenting plan or child custody proceedings that section 19 of the engrossed second substitute bill would have included.

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

The proposed legislation would amend several RCW sections related to drug possession and prescribe penalties, among other changes.

Section 2 would amend RCW 69.50.4011, specifying that knowing possession of a counterfeit substance and knowing possession and use in public of a counterfeit substance are misdemeanors.

Section 3 would amend RCW 69.50.4013, specifying that knowing possession and knowing possession and use in public of a controlled substance, subject to certain exceptions, or knowing possession of “cannabis, cannabis-infused products, or cannabis concentrates” by someone under 21 is a misdemeanor.

Section 4 would amend RCW 69.50.4014, specifying that “any person found guilty of knowing possession of 40 grams or less of cannabis is guilty of a misdemeanor.”

Section 5 would amend RCW 69.41.030, specifying that knowing possession and knowing possession and use in public of a legend drug under certain circumstances is a misdemeanor.

Sections 2 through 5 would specify that “law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement,” and that “upon arraignment for a violation of this section involving knowing possession, the court shall determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity described in section 10 of this act.” Prosecutors would also be “encouraged to divert such cases for assessment, treatment, or other services.”

Section 6 would amend RCW 69.50.509, specifying that judges shall authorize warrants for search and seizure based on a sworn complaint of knowing possession of any controlled substance in violation of chapter 69.50 RCW.

Section 8 would amend RCW 69.50.4121, removing giving or allowing drug paraphernalia to be given from the definition of actions that constitute a class I civil infraction, and adding smoking and drug testing equipment to the list of items that

may be legally distributed “through public health programs, community-based HIV prevention programs, outreach, shelter and housing programs, and pharmacies.”

Section 9 would add a new section to chapter 69.50 RCW, specifying that the state of Washington would fully occupy and preempt the field of drug paraphernalia regulation within the borders of the state.

Section 10 would add a new section to chapter 69.50 RCW, specifying that individuals charged with violations of RCW 69.50.4011(1)(b), 69.50.4013, 14 69.50.4014, or 69.41.030 may make a motion to participate in the pretrial diversion program detailed in this section.

This section would require that applicable programs conduct biopsychosocial assessments of people who are granted motions to participate in the pretrial diversion program. Subject to funds appropriated for this purpose, these assessments and any recommended treatment or services would be required to be provided at no cost for people who have been found to be indigent. If this assessment results in a report recommending no treatment or services, a person would be required to complete an amount of community restitution not to exceed 120 hours in order to complete pretrial diversion.

Applicable programs as described in this section would be defined as including arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

Finally, this section would describe requirements related to the above diversion program and any violations of its conditions, and would describe the criteria with which courts could determine whether someone has successfully completed the pretrial diversion program, at which point a person's qualifying drug charges would be required to be dismissed. Courts would be required to order people participating in the above program who have been found to have a substance use disorder to be ineligible to possess firearms, and such people would be required to surrender their firearms.

Section 11 would add a new section to chapter 69.50 RCW, specifying sentencing requirements for drug possession cases in courts of limited jurisdiction. These requirements would include suspended sentences of up to 90 days for people convicted of specified offenses who agree as conditions of probation to obtain a biopsychosocial assessment from an applicable program and participate in recommended treatment or services, or complete court-ordered community restitution if no treatment or services are recommended. Applicable program would have the same definition for the purposes of this section as it would have in section 10 of the proposed legislation.

This section also describes the procedures and penalties in the cases of people who violate the conditions of their probation.

If a biopsychosocial assessment under this section recommends treatment or services, courts would be required to determine whether a person would be required to complete a course in an alcohol and drug information school or a more intensive course of treatment or services to meet the conditions of their probation. People who are not recommended treatment or services after receiving a biopsychosocial assessment under this section would be required to complete an amount of community restitution not to exceed 120 hours to meet the conditions of their probation.

Subsection 11 (6) specifies that “subject to the availability of funds appropriated for this purpose, the recommended treatment or services as ordered by the court shall be provided at no cost for sentenced individuals who have been found to be indigent by the court.”

If a person who receives an assessment under this section was found to have a substance use disorder, courts would be required to order that person to be ineligible to possess firearms.

Section 12 would amend RCW 9.96.060, requiring that a court vacate the conviction or convictions of “an individual who is convicted of a violation or violations of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030 (2) (b) or (c)” who has had no additional criminal arrests, charges or convictions for two years following a conviction for one of the above offenses.

Section 15 would amend RCW 36.70A.200, adding programs that include “opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites, and inpatient facilities including substance use disorder treatment facilities” under the definition of essential public facilities. The comprehensive plans of certain cities and counties are required to include a process for identifying and siting such facilities.

Section 16 would amend RCW 71.24.589, directing the Washington State Healthcare Authority to administer a grant program for law enforcement assisted diversion programs.

Section 17 would amend RCW 71.24.590, specifying that “counties and cities may require conditional use permits with reasonable conditions for the siting of programs only to the extent that such reasonable conditional use requirements applied to opioid treatment programs are similarly applied to other essential public facilities and health care settings.” This section would also specify that “no city or county legislative authority may impose a maximum capacity for an opioid treatment program.”

Section 19 would repeal RCW 10.31.115.

Section 21 would amend RCW 84.36.043, creating a property tax exemption for nonprofit organizations that maintain an approved recovery residence and that meet certain conditions.

Section 27 would amend RCW 71.24.115, requiring that recovery navigator programs be overseen and directed by policy coordinating groups that would include local executive and legislative officials, public safety agencies, including police and prosecutors, and civil rights, public defense and human services organizations.

Section 34 specifies that section 7 of the proposed legislation would take effect on January 1, 2025.

Section 35 would specify that sections 8 through 10, and 12 of Chapter 311, Laws of 2021 would expire on July 1, 2023.

Section 36 specifies that sections 2 through 6, 8 through 12, and 35 the proposed legislation would take effect July 1, 2023.

Section 37 specifies that if any part of this act were to be held to be invalid, the remainder of the act would be unaffected.

Section 38 would add a null and void clause.

## **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 amendment would remove the provision included in the engrossed second substitute bill that would have created a right to court-appointed counsel under certain conditions for parents, guardians or custodians in parenting plan or child custody proceedings. It was unknown in how many cases counsel may have been appointed, how much attorney time a given proceeding would have required, or what rates contracted attorneys may have been compensated at, so the local government expenditure impact of this provision was indeterminate.

By removing this provision, the amendment would not create this indeterminate local government impact.

In addition, the amendment would maintain the current status of knowing possession of a counterfeit or controlled

substance, or legend drug as misdemeanor offenses, while the engrossed second substitute bill would have upgraded these offenses to gross misdemeanors. The Washington State Caseload Forecast Council (CFC) does not collect data on misdemeanor or gross misdemeanor offenses, and so cannot reliably estimate the jail or juvenile detention bed impacts of the current bill.

Despite that, however, it is reasonable to assume that the amendment would not create any local government expenditure impacts that would have resulted from increased demand for jail or juvenile detention beds due to the longer standard range terms of confinement for gross misdemeanor offenses. This impact, which the engrossed second substitute bill could have created, was of indeterminate magnitude, in part because of the pretrial detention program and new sentencing requirements in sections 10 and 11.

Section 27 of the amendment would require that recovery navigator programs be overseen and directed by policy coordinating groups that would include local executive and legislative officials, public safety agencies, including police and prosecutors, and civil rights, public defense and human services organizations. Participation in these policy coordinating groups could have an impact on the expenditures of local governments that employ group members, however it is unknown how much time this participation would require, and whether it could be accomplished within existing resources or would create additional expenditures. Accordingly, the local government expenditure impact of this provision is indeterminate.

#### EXPENDITURE IMPACT OF CURRENT BILL:

The proposed legislation would have both determinate and indeterminate impacts on local government expenditures.

Please note that the Washington State Administrative Office of the Courts (AOC) estimates that the proposed legislation would have significant expenditure impacts on both county and municipal courts. These expenditure impacts are detailed in the AOC fiscal note for this bill version.

According to the Washington Association of Sheriffs and Police Chiefs (WASPC), all local law enforcement officers would need to go through training regarding the modifications this bill would make to existing criminal offenses, and the changes it would make to referral requirements and other current procedures. WASPC estimates that approximately one hour of training would be required per law enforcement officer. This training would require a one-time cost of \$442,860 for cities and \$134,400 for counties, for a total one-time cost to local governments of \$577,260.

The 2021 Crime in Washington Report conducted by WASPC states that there are 6,710 commissioned officers in police departments and 2,240 commissioned officers in sheriff's departments, for a total of 8,950 commissioned law enforcement employees that would require training. 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. If every officer in Washington had to complete approximately one hour of training, the cost to local governments would be:

Cities:

6,710 officers X 1 hour X \$66 = \$442,860

Counties:

2,240 officers X 1 hour X \$60 = \$134,400

Total:

\$442,860 + \$134,400 = \$577,260

Training materials and time required may differ among different departments, however.

An increase in firearms surrenders as a result of the new provisions included in sections 10 and 11 of the proposed legislation would result in an increase in law enforcement expenditures as a result of having to process these additional surrenders. It is unknown how many people who agree to participate in a diversion or probation program might possess firearms that would be required to be surrendered, however, and the amount of law enforcement time required in a given case can vary, so the magnitude of this expenditure impact is indeterminate.

According to the CFC fiscal note on this bill, since CFC does not collect data on misdemeanor and gross misdemeanor offenses, it cannot predict the jail or juvenile detention bed impacts resulting from this bill. In addition, section 10, which would outline a pretrial diversion program for people charged with certain specified drug possession offenses could decrease demand for jail beds. Section 11, which would require that people convicted of certain specified drug possession offenses receive a suspended sentence if they agree to certain conditions of probation, could also decrease demand for jail beds. People who violate the conditions of these programs, however, could have their case proceed to trial and face a sentence of a term of confinement in jail. Accordingly, the associated expenditure impact on local governments stemming from a change in demand for jail beds as a result of the proposed legislation is indeterminate.

The 2023 Local Government Fiscal Note Program Criminal Justice Cost Model estimates that the average daily cost of occupying a jail bed is \$145. The Local Government Fiscal Note Program does not have detailed information on the costs of juvenile detention, however the average daily rate for juvenile detention beds is generally higher than the same figure for a jail bed. Additionally, it is unknown how many juveniles may enter pre-trial diversion per section 10, so the resulting impact on county juvenile detention expenditures is indeterminate.

Section 11 would require courts of limited jurisdiction to deliver suspended sentences of specified lengths to people convicted of the drug possession offenses listed in this section if these people agree to submit to biopsychosocial assessment and either substantially comply with recommended treatment or services, or complete up to 120 hours of community restitution as a condition of probation. In these cases, jails would not incur the costs of confinement for people convicted of drug possession offenses that they otherwise would have. In cases where a court finds a person “has willfully abandoned or demonstrated a consistent failure to substantially comply with the recommended treatment or services,” or is failing to complete court-ordered community restitution, a portion of that person's suspended sentence would be reinstated, resulting in confinement expenditures for jails.

It is unknown, however, how many people may agree to the probation conditions under section 11, or how many of those people may subsequently have a portion of their suspended sentence reinstated, so the local government expenditure impact due to a change in demand for jail beds compared with the first substitute bill is indeterminate.

The Washington Association of Prosecuting Attorneys (WAPA) indicates that the new sentencing requirements that section 10 of the proposed legislation would create could require additional prosecutor time. While it is unknown what the implementation details of the pre-trial diversion program this section references might be, WAPA indicates that it could be structured in a similar way to existing county drug courts. According to WAPA, diversion supervision typically requires time from a prosecutor, a probation officer or other court staffer, a defender, and in some cases, a judge. These supervision cases often require regular meetings, however the total time required of participating parties in a given case can vary. It is reasonable to assume such cases would require a similar amount of time from both prosecutors and public defenders.

If a person who entered a pre-trial diversion program under section 10 of the bill were to be found to be “not substantially complying with the recommended treatment or services,” or failing to complete court-ordered community restitution, that person could face trial, requiring additional prosecutor and public defender time.

It is unknown, however, how many people may choose to enter the pre-trial diversion program under section 10 of the proposed legislation, and how many of those people may violate the conditions of the program and require a subsequent trial. It is also unknown how the time required for a diversion case would compare with the time that would not be required for a trial. Finally, under the requirements of Chapter 311, Laws of 2021, prosecutors are already “encouraged to divert” cases concerning knowing drug possession “for assessment, treatment, or other services,” and the proposed legislation would keep that language. It is unknown if or how section 10 of the proposed legislation may change the number of people who enter pre-trial diversion compared to the present.

Accordingly, the local government expenditure impact resulting from any changes in demand for prosecutor and public defender time related to section 10 of the proposed legislation is indeterminate. The 2023 Local Government Fiscal Note Program Unit Cost Model estimates that the average hourly salary plus benefits and overhead for a prosecuting attorney is \$82.

According to WAPA, section 11 could also create additional demands for prosecutor time. WAPA indicates that, as described above in relation to the diversion program in section 10, prosecutors may participate in the supervision of people who have entered into probation under section 11, requiring an indeterminate amount of prosecutor time. Similarly, WAPA indicates that in the cases of people who violate their probation conditions, the required hearings would require additional prosecutor time, and the association estimates these hearings would likely require a similar amount of time as probation hearings for DUI, which typically take approximately 10-15 minutes.

It is unknown, however, how many people may agree to the probation conditions under section 11, or how many of those people may subsequently have a portion of their suspended sentence reinstated, so the local government expenditure impact due to a change in demand for prosecutor time compared with the first substitute bill is indeterminate.

Both the diversion program under section 10 and the language in sections 2-5 encouraging law enforcement to offer referrals to assessment and services in lieu of arrest and jail booking for the possession offenses in those sections could create additional local government expenditures.

The Association of Washington Cities (AWC) indicates that the language in sections 2-5 encouraging law enforcement to offer referrals to assessment and services in lieu of arrest and jail booking for the possession offenses in those sections could create additional demand for services from the existing alternative response, and arrest and jail alternative programs that some cities and local law enforcement agencies administer. These costs would vary based on jurisdiction and how many additional participants may be directed into these programs, however, and are accordingly indeterminate. By way of illustration, a 2019 analysis found that Seattle's Law Enforcement Assisted Diversion program costs averaged between \$530 and \$900 per participant per month.

According to AWC, while the proposed legislation does not require it, some cities may choose to respond to the language in sections 2-5 and 10 by creating new alternative response, or arrest and jail alternative programs to be able to provide assessment and services to people who have interactions with law enforcement that are related to drug possession. These costs could vary widely based on the kind of program a jurisdiction may choose to set up, the existing level of resources in a jurisdiction and the number of people a program may be designed to serve. As a result of this variability, the statewide expenditure impact of setting up new alternative response, or arrest and jail alternatives, for jurisdictions that choose to do so, is indeterminate. By way of illustration, in 2022, AWC provided grants averaging \$135,000 per jurisdictions to assist in setting up alternative response programs.

Section 15 of the proposed legislation would require Growth Management Act fully planning cities and counties to update their comprehensive plans to “include a process for identifying and siting” substance use disorder treatment programs.

This requirement would result in one-time costs of approximately \$3,270,000 for cities and \$1,400,000 for counties, for a total one-time cost to local governments of approximately \$4,670,000.

It is assumed that qualifying cities and counties would incur the costs of this required update during the next scheduled periodic comprehensive update specified by RCW 36.70A.130 (5). In a fiscal note for a bill that required a similar update to comprehensive plans, the Washington State Association of Counties estimated that each update would cost a qualifying county approximately \$50,000. The Association of Washington Cities estimates that the same figure for cities would be approximately \$15,000.

The following lists the numbers of cities and counties with planning deadlines at the end of calendar years 2024-2027, and the total local planning costs to update comprehensive plans in accordance with section 15 of the proposed legislation in each year:

Calendar year 2024:

$(82 \text{ cities} \times \$15,000 \text{ per update}) + (4 \text{ counties} \times \$50,000 \text{ per update}) = \$1,430,000$

Calendar year 2025:

$(48 \text{ cities} \times \$15,000 \text{ per update}) + (10 \text{ counties} \times \$50,000 \text{ per update}) = \$1,220,000$

Calendar year 2026:

$(55 \text{ cities} \times \$15,000 \text{ per update}) + (8 \text{ counties} \times \$50,000 \text{ per update}) = \$1,225,000$

Calendar year 2027:

$(33 \text{ cities} \times \$15,000 \text{ per update}) + (6 \times \$50,000 \text{ per update}) = \$795,000$

Total: \$4,670,000

These following approximate fiscal year spending estimates are based on planning work occurring two years before the submission date of a periodic update as per RCW 36.70A.130(5). These figures also assume work on the development regulations would begin 90 days after the effective date of the bill and all planning jurisdictions with 2024 and 2025 due dates would begin in fiscal year 2024.

Fiscal year 2024:

City: \$1,282,500

County: \$400,000

Combined: \$1,682,500

Fiscal year 2025:

City: \$1,080,000

County: \$500,000

Combined: \$1,580,000

Fiscal year 2026:

City: \$660,000

County: \$350,000

Combined: \$1,010,000

Fiscal year 2027:

City: \$247,500  
County: \$150,000  
Combined: \$397,500

Total: \$4,670,000

Section 27 of the amendment would require that recovery navigator programs be overseen and directed by policy coordinating groups that would include local executive and legislative officials, public safety agencies, including police and prosecutors, and civil rights, public defense and human services organizations. Participation in these policy coordinating groups could have an impact on the expenditures of local governments that employ group members, however it is unknown how much time this participation would require, and whether it could be accomplished within existing resources or would create additional expenditures. Accordingly, the local government expenditure impact of this provision 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 amendment would not change the local government revenue impact the previous bill version would have had.

#### **REVENUE IMPACT OF CURRENT BILL:**

According to the Department of Revenue (DOR) this bill would result in a state levy shift to other taxpayers of an estimated \$198,000 for fiscal year 2024 and \$390,000 in fiscal year 2025, the first full fiscal year. It would also decrease local government revenue by \$32,000 for fiscal year 2024 and \$65,000 in fiscal year 2025. Please see the DOR fiscal note for this bill for its full list of assumptions and data sources.

#### **ASSUMPTIONS AND METHODOLOGY:**

##### **Tax Shift and Revenue Loss:**

Tax exemptions lower the taxable value against which taxing districts levy their taxes. When exemptions are enacted, taxing districts may compensate for the loss in taxable value by increasing the tax rate for taxpayers who are not eligible for the exemptions. Consequently, taxpayers who do not benefit from the exemption would pay a higher tax. This higher tax results in a tax shift from the exempt taxpayers to the non-exempt taxpayers. However, when a taxing district is restricted from increasing the tax rate due to a levy limit, the taxing district incurs a revenue loss. Local government revenue losses were computed by taking the DOR fiscal note data and multiplying the result by the property tax distribution for counties, cities and special districts. These percentages are derived from DOR Property Tax Statistics for 2022.

##### **Calendar Year versus Fiscal Year:**

Note that a tax shift is presented by calendar year (CY) and a revenue loss is presented by fiscal year (FY). Taxes are assessed and collected by the counties on a calendar-year basis. When a tax shift occurs, it is computed for the calendar year. Because revenue and expenditures are reported on a fiscal year basis, the revenue loss is also for a fiscal year. Tax shift figures for special districts include school districts; school districts do not experience a revenue loss.

#### **REVENUE CHANGE BREAKDOWN:**

##### **COUNTIES:**

FY 2024 -\$11,716  
FY 2025 -\$23,800  
FY 2026 -\$25,994  
FY 2027 -\$28,191  
FY 2028 -\$30,753  
FY 2029 -\$33,316

CITIES:

FY 2024 -\$9,530  
FY 2025 -\$19,354  
FY 2026 -\$21,146  
FY 2027 -\$22,933  
FY 2028 -\$25,018  
FY 2029 -\$27,103

SPECIAL DISTRICTS:

FY 2024 -\$10,754  
FY 2025 -\$21,846  
FY 2026 -\$23,860  
FY 2027 -\$25,876  
FY 2028 -\$28,229  
FY 2029 -\$30,581

TAX SHIFT:

COUNTIES:

CY 2024 \$213,216  
CY 2025 \$233,143  
CY 2026 \$255,062  
CY 2027 \$278,974  
CY 2028 \$306,872  
CY 2029 \$334,769

CITIES:

CY 2024 \$172,187  
CY 2025 \$188,279  
CY 2026 \$205,980  
CY 2027 \$225,291  
CY 2028 \$247,820  
CY 2029 \$270,349

SPECIAL DISTRICTS:

CY 2024 \$684,597  
CY 2025 \$748,578  
CY 2026 \$818,957  
CY 2027 \$895,735  
CY 2028 \$985,308  
CY 2029 \$1,074,881

SOURCES:

Association of Washington Cities  
Crime in Washington Report, 2021  
Local government fiscal note for HB 1799, 2022  
Local Government Fiscal Note Program Criminal Justice Cost Model, 2023

Local Government Fiscal Note Program Tax Shift and Revenue Loss Model, 2023

Local Government Fiscal Note Program Unit Cost Model, 2023

Washington Association of Prosecuting Attorneys

Washington Association of Sheriffs and Police Chiefs

Washington State Administrative Office of the Courts

Washington State Caseload Forecast Council

Washington State Department of Revenue