

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5805 SB	<b>Title:</b> Dependency/attorney appt.	<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: Alison Mendiola	Phone: 360-786-7488	Date: 01/03/2024
Agency Preparation: Gideon Newmark	Phone: 360-586-3164 1	Date: 01/08/2024
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 01/08/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/09/2024

## 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.*

There is no fiscal impact

RCW 13.34.212(3) provides a phased-in right to counsel for every child under the age of 8 in termination proceedings, and for every child between the ages of 8 and 17 for dependency and termination proceedings. The present statute directs the Office of Civil Legal Aid (OCLA) to provide this right to counsel for children in 30 counties by January 1, 2026 and statewide by January 1, 2027. SB 5805 slows OCLA's statewide implementation of this right to counsel by adding an extra step, mandating representation in 36 counties by January 1, 2027, and statewide by January 1, 2028.

The Office of Public Defense (OPD) provides indigent representation for appeals of trial court rulings in dependency and termination cases, including appeals by children.

Extending the deadline for statewide implementation of children's representation distributes the costs to implement RCW 13.34.212(3) over a longer time period. In response to HB 1219, which enacted RCW 13.34.212, OPD estimated a cost of \$66,846 to cover appeals for statewide implementation. Per that estimate, SB 5805 would reduce OPD's appellate costs in FY27 by \$5,142, and increase appellate costs by \$5,142 in FY28, for no net fiscal impact.

### 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> 5805 SB	<b>Title:</b> Dependency/attorney appt.	<b>Agency:</b> 057-Office of Civil Legal Aid
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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: Alison Mendiola	Phone: 360-786-7488	Date: 01/03/2024
Agency Preparation: Jim Bamberger	Phone: (360) 704-4135	Date: 01/06/2024
Agency Approval: Jim Bamberger	Phone: (360) 704-4135	Date: 01/06/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/08/2024

## 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.*

There is no fiscal impact.

Sec. 1 of SB 5805 amends RCW 13.34.212(3)(c) to (a) extend the schedule for implementation of the right to appointed counsel for children in dependency cases for an additional year, (b) limit the number of additional dependent children for whom representation will be made available to no more than 1,250 per calendar year, and (c) provide the Office of Civil Legal Aid (OCLA) with latitude to develop a schedule that, “to the extent practicable” achieves the priorities outlined in section .212(3)(c)(i). The bill makes no other substantive changes to the right to appointed counsel for children in dependency and termination cases established in ch. 210, laws of 2021 (codified at RCW 13.34.212(3)).

SB 5805 is a follow up to a budget proviso in the FY 23-25 operating budget bill that directed OCLA to “[d]evelop a revised implementation schedule based on a caseload assumption of adding no more than 1,250 new dependency cases to the program each fiscal year for consideration by the governor and the legislature.” Sec. 116(1), ch. 475, laws of 2023. OCLA submitted a proposal on October 2, 2023 (copy attached to this FN). The proposal is the source of the revised schedule outlined in SB 5805.

Extending the deadline for statewide implementation does not change the overall cost to implement the mandate of RCW 13.34.212(3). It distributes these costs over a longer time period. Consequently, as shown in the attached Excel sheet, the extended schedule will reduce the number of FTE attorney contractors that OCLA will engage over the near term (through FY 2027). This will reduce expenses associated with this program from those projected in the current implementation schedule. The extended period to achieve full statewide implementation (by January 1, 2028) will still fall within the FY 27-29 biennium as originally projected, with implementation expenses now occurring in both FY 2027 and FY 2028 of that biennium (in contrast with the initial projection of full implementation in FY 2027).

### 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.*



## Washington State Office of Civil Legal Aid

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Bailey Zydek, Program Manager  
Children's Representation Program  
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To: Sen. Claire Wilson, Chair Senate Human Services Committee  
Sen. Noel Frame  
Sen. Matt Boehnke, Ranking Member Senate Human Services Committee  
Sen. June Robinson, Chair Senate Ways and Means Committee  
Sen. Lynda Wilson, Ranking Member Senate Ways and Means Committee  
Rep. Tana Senn, Chair House Human Services, Youth & Early Learning Committee  
Rep. Carolyn Eslick, Ranking Member House Human Services, Youth & Early Learning Committee  
Rep. Timm Ormsby, Chair House Appropriations Committee  
Rep. Chris Corry, Ranking Member House Appropriations Committee

From: Bailey Zydek, OCLA Children's Representation Program Manager  
Jim Bamberger, OCLA Director

Re: Report to Legislature in Response to Sec. 116(1), Ch. 475, Laws of 2023  
Revised Implementation Schedule for RCW 13.34.212(3)(c)

Date: October 2, 2023

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Sec. 116(1), ch. 475, Laws of 2023 directed in relevant part:

By October 1, 2023, the office must develop a revised implementation schedule based on a caseload assumption of adding no more than 1,250 new dependency cases to the program each fiscal year for consideration by the governor and the legislature.

In accordance with the budget proviso, the Office of Civil Legal Aid (OCLA) hereby submits a proposed revised schedule for implementation of the mandate for expanded children's representation required under RCW 13.34.212(3).

As currently written, RCW 13.34.212(3)(c) directs:

(c) The [OCLA] statewide children's legal representation program shall develop a schedule for court appointment of attorneys for every child in dependency proceedings that will be phased in on a county-by-county basis over a six-year period. The schedule required under this subsection must:

(i) Prioritize implementation in counties that have:

(A) No current practice of appointment of attorneys for children in dependency cases; or

- (B) Significant prevalence of racial disproportionality or disparities in the number of dependent children compared to the general population, or both;
- (ii) Include representation in at least:
  - (A) Three counties beginning July 1, 2022;
  - (B) Eight counties beginning January 1, 2023;
  - (C) Fifteen counties beginning January 1, 2024;
  - (D) Twenty counties beginning January 1, 2025;
  - (E) Thirty counties beginning January 1, 2026; and
- (iii) Achieve full statewide implementation by January 1, 2027.

As currently planned and implemented to date, OCLA’s RCW 13.34.212(3) implementation schedule is:

- Cohort 1 (2023) (Grant, Lewis, Cowlitz, Yakima, Benton, Franklin, Walla Walla, Kittitas)
- Cohort 2 (2024) (Thurston, Mason, Adams, Grays Harbor, Pacific, Klickitat, Skamania)
- Cohort 3 (2025) (Pierce, Whitman, Stevens, Ferry, Pend Oreille)
- Cohort 4 (2026) (Spokane, Lincoln, Kitsap, Clallam, Jefferson, Chelan, Douglas, Clark, Skagit, Whatcom)
- Cohort 5 (2027) (King, Snohomish, Okanogan, Asotin, San Juan, Island, Wahkiakum, Garfield, Columbia)

Cohort 1 has been fully implemented. Cohort 2 attorneys are identified and will be under contract shortly and begin accepting appointments on or shortly before January 1, 2024.

Cohorts 3, 4, and 5 involved onboarding the state’s largest counties – Pierce, Spokane, Snohomish, King, and Clark. Based on caseload numbers at the time, OCLA projected the number of children for whom appointments would be required to range from 900 (Cohort 3) to 2100 (Cohort 4). Recognizing that bringing on cohorts of this size at a time of extreme attorney shortages presented a potentially impossible task, the Legislature in the budget proviso set forth above directed OCLA to come up with an extended implementation schedule during which no single cohort would exceed 1250 children/youth.

OCLA’s Children’s Representation Program (CRP) team reviewed the best available caseload data, its recruitment and contracting experience to date, the legislative priorities guiding implementation of the expanded program, and the team’s capacity to bring the additional counties on-line successfully. Based on this review, the CRP team recommends that the implementation schedule be extended through FY 28 and be carried out in accordance with the schedule below:

<b>County</b>	<b># of Eligible Children</b>	<b>Projected FTE Contractors</b>
<b>2025</b>		
Pierce	628	14.0
Stevens	1	0.0
Ferry	13	0.3



Pend Oreille	2	0.1
Wahkiakum	10	0.3
<b>2025 Totals</b>	<b>654</b>	<b>14.6</b>
<b>2026</b>		
Spokane	525	12.0
Chelan	53	1.3
Douglas	23	0.5
Okanogan	32	0.8
Lincoln	7	0.2
Asotin	16	0.4
Columbia	8	0.2
Garfield	1	0.1
Whitman	21	0.5
Clark	390	9.0
<b>2026 Totals</b>	<b>1076</b>	<b>24.9</b>
<b>2027</b>		
Kitsap	120	3.0
Skagit	95	2.2
Whatcom	189	4.2
Jefferson	33	0.8
Clallam	60	1.5
Snohomish	247	5.5
<b>2027 Totals</b>	<b>744</b>	<b>17.2</b>
<b>2028</b>		
King	896	20.0
San Juan	3	0.1
Island	22	0.5
<b>2028 Totals</b>	<b>921</b>	<b>20.6</b>

This schedule meets the directive of the budget proviso and flattens out the implementation effort. This in turn increases the likelihood of achieving implementation objectives consistent with relevant standards and reduces the volatility of budget demands as new cohort sizes will average 849 children/youth and no single cohort will require contracts for more than 1076 new children/youth.

Based on the foregoing, OCLA's Children's Representation Program recommends that the Legislature amend the implementation schedule set forth in RCW 13.34.212(3)(c) to extend the period for implementation of the program expansion consistent with this proposed revised schedule. Suggested language to this effect is reproduced below:

Sec. 6(3)(c), ch. 210, laws of 2021 is hereby amended to read:

(c) The statewide children's legal representation program shall develop a schedule for court appointment of attorneys for every child in dependency proceedings that will be phased in on a county-by-county basis over a seven-year period. The schedule required under this subsection must not add more than 1,250 cases each fiscal year and should, to the extent practicable:

(i) Prioritize implementation in counties that have:

(A) No current practice of appointment of attorneys for children in dependency cases; or

(B) Significant prevalence of racial disproportionality or disparities in the number of dependent children compared to the general population, or both;

(ii) Include representation in at least:

(A) Three counties beginning July 1, 2022;

(B) Eight counties beginning January 1, 2023;

(C) Fifteen counties beginning January 1, 2024;

(D) Twenty counties beginning January 1, 2025;

(E) Thirty counties beginning January 1, 2026; ~~and~~

(F) Thirty-six counties beginning in January 1, 2027; and

(iii) Achieve full statewide implementation by January 1, ~~2027~~ 2028.

We welcome the opportunity to provide a briefing in a work session or otherwise.

Former Projections Under Current Implementation Schedule										
County Cohorts Coming Online	# of Eligible Children	Prev. Projected FTE	Prev. FTE Projected Annual Cost @ Old Vendor Rate	FTE Annual Cost @ Current Vendor Rate	FTE Cost Increase FY 25	FTE Cost Increase FY 26	FTE Cost Increase FY 27	FTE Cost Increase FY 28	FTE Cost Increase FY 29	FTE Cost Increase FY 29
Jan 1, 2025: Pierce, Whitman, Stevens, Ferry, Pend Oreille	891	20.0	\$ 2,880,000.00	\$ 3,820,000.00	\$1,910,000.00	\$ 3,820,000.00	\$ 3,820,000.00	\$ 3,820,000.00	\$ 3,820,000.00	\$ 3,820,000.00
Jan. 1, 2026: Spokane, Lincoln, Kitsap, Clallam, Jefferson, Whatcom, Skagit, Chelan, Douglas, Clark	2162	48.0	\$ 6,912,000.00	\$ 9,168,000.00	\$ -	\$ 4,584,000.00	\$ 9,168,000.00	\$ 9,168,000.00	\$ 9,168,000.00	\$ 9,168,000.00
Jan. 1, 2027: King, Snohomish, Okanogan, Asotin, San Juan, Island, Wahkiakum, Garfield, Columbia	1334	30.0	\$ 4,320,000.00	\$ 5,730,000.00	\$ -	\$ -	\$ 2,865,000.00	\$ 5,730,000.00	\$ 5,730,000.00	\$ 5,730,000.00
<b>Totals:</b>	<b>4387</b>	<b>98.0</b>	<b>\$ 14,112,000.00</b>	<b>\$ 18,718,000.00</b>	<b>\$ 1,910,000.00</b>	<b>\$ 8,404,000.00</b>	<b>\$ 15,853,000.00</b>	<b>\$ 18,718,000.00</b>	<b>\$ 18,718,000.00</b>	<b>\$ 18,718,000.00</b>

  

Current Projections Under Current Implementation Schedule										
County Cohorts Coming Online	# of Eligible Children	Current Projected FTE Rate	FTE Annual Cost @ Current Vendor Rate	FTE Cost Increase FY 25	FTE Cost Increase FY 26	FTE Cost Increase FY 27	FTE Cost Increase FY 28	FTE Cost Increase FY 29	FTE Cost Increase FY 29	FTE Cost Increase FY 29
Jan 1, 2025: Pierce, Whitman, Stevens, Ferry, Pend Oreille	665	15.0	\$ 2,865,000.00	\$ 1,432,500.00	\$2,865,000.00	\$ 2,865,000.00	\$ 2,865,000.00	\$ 2,865,000.00	\$ 2,865,000.00	\$ 2,865,000.00
Jan. 1, 2026: Spokane, Lincoln, Kitsap, Clallam, Jefferson, Whatcom, Skagit, Chelan, Douglas, Clark	1495	33.0	\$ 6,303,000.00	-	\$3,151,500.00	\$ 6,303,000.00	\$ 6,303,000.00	\$ 6,303,000.00	\$ 6,303,000.00	\$ 6,303,000.00
Jan. 1, 2027: King, Snohomish, Okanogan, Asotin, San Juan, Island, Wahkiakum, Garfield, Columbia	1235	27.5	\$ 5,252,500.00	-	-	\$ 2,626,250.00	\$ 5,252,500.00	\$ 5,252,500.00	\$ 5,252,500.00	\$ 5,252,500.00
<b>Totals:</b>	<b>3395</b>	<b>75.5</b>	<b>\$ 14,420,500.00</b>	<b>\$ 1,432,500.00</b>	<b>\$6,016,500.00</b>	<b>\$11,794,250.00</b>	<b>\$14,420,500.00</b>	<b>\$14,420,500.00</b>	<b>\$14,420,500.00</b>	<b>\$14,420,500.00</b>

  

Current Projections Under Proposed Amended Implementation Schedule										
County Cohorts Coming Online	# of Eligible Children	Current Projected FTE Rate	FTE Annual Cost @ Current Vendor Rate	FTE Cost Increase FY 25	FTE Cost Increase FY 26	FTE Cost Increase FY 27	FTE Cost Increase FY 28	FTE Cost Increase FY 29	FTE Cost Increase FY 29	FTE Cost Increase FY 29
Jan 1, 2025: Pierce, Wahkiakum, Stevens, Ferry, Pend Oreille	654	14.5	\$ 2,769,500.00	\$ 1,384,750.00	\$2,769,500.00	\$ 2,769,500.00	\$ 2,769,500.00	\$ 2,769,500.00	\$ 2,769,500.00	\$ 2,769,500.00
Jan. 1, 2026: Spokane, Chelan, Douglas, Okanogan, Lincoln, Asotin, Columbia, Garfield, Whitman, Clark	1076	24	\$ 4,584,000.00	\$ -	\$2,292,000.00	\$ 4,584,000.00	\$ 4,584,000.00	\$ 4,584,000.00	\$ 4,584,000.00	\$ 4,584,000.00
Jan. 1, 2026: Kitsap, Skagit, Whatcom, Jefferson, Clallam, Snohomish	744	16.5	\$ 3,151,500.00	\$ -	\$ -	\$ 1,575,750.00	\$ 3,151,500.00	\$ 3,151,500.00	\$ 3,151,500.00	\$ 3,151,500.00
Jan. 1, 2028: King, Island, San Juan	921	20.5	\$ 3,915,500.00	\$ -	\$ -	\$ -	\$ 1,957,750.00	\$ 3,915,500.00	\$ 3,915,500.00	\$ 3,915,500.00
<b>Totals:</b>	<b>3395</b>	<b>75.5</b>	<b>\$ 14,420,500.00</b>	<b>\$ 1,384,750.00</b>	<b>\$5,061,500.00</b>	<b>\$ 8,929,250.00</b>	<b>\$12,462,750.00</b>	<b>\$14,420,500.00</b>	<b>\$14,420,500.00</b>	<b>\$14,420,500.00</b>