Multiple Agency Fiscal Note Summary

| **Bill Number:** 1951 HB | **Title:** Algorithmic discrimination |

Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Office of Attorney General	2.4	1,076,000	1,076,000	1,076,000	4.7	2,152,000	2,152,000	2,152,000	4.7	2,152,000	2,152,000	2,152,000
Human Rights Commission	Fiscal note not available											
Total $	2.4	1,076,000	1,076,000	1,076,000	4.7	2,152,000	2,152,000	2,152,000	4.7	2,152,000	2,152,000	2,152,000

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									
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Human Rights Commission	Fiscal note not available								
Total $	0.0	0	0	0.0	0	0	0.0	0	0

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

Estimated Capital Budget Breakout

Prepared by:	Val Terre, OFM	Phone:	Date Published:
		(360) 280-3973	Preliminary 1/26/2024

Judicial Impact Fiscal Note

Bill Number:	1951 HB	Title:	Algorithmic discrimination	Agency:	055-Administrative Office of the Courts

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

Non-zero but indeterminate cost 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:

[X] If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note fo 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	Megan Mulvihill	Phone: 360-786-7304	Date: 01/09/2024
Agency Preparation:	Angie Wirkkala	Phone: 360-704-5528	Date: 01/25/2024
Agency Approval:	Chris Stanley	Phone: 360-357-2406	Date: 01/25/2024
OFM Review:	Gaius Horton	Phone: (360) 819-3112	Date: 01/25/2024

Part II: Narrative Explanation

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

This bill would add a new chapter to Title 19 RCW relating to promoting ethical artificial intelligence by protecting against algorithmic discrimination.

Section 1 of the bill defines terms including "deployer" which includes all "state or local government agencies". The definition does not explicitly exempt courts. For the purposes of this fiscal note, courts are assumed to be "deployers". It also defines "automated decision tool" as a system or service that uses artificial intelligence and has been specifically developed and marketed to, or specifically modified to, make, or be a controlling factor in making, consequential decisions.

Section 2 of the bill requires by January 1, 2025, and annually thereafter, that deployers of an automated decision tool complete and document an impact assessment for any automated decision tool the deployer uses or develops. The impact assessment must be repeated at the time of any significant update.

Section 6 of the bill deems violations an unfair practice under state anti-discrimination law (chapter 49.60 RCW) entitling victims to bring civil actions and to file complaints with human rights commission.

II. B - Cash Receipts Impact

None

II. C - Expenditures

If each court would be required to conduct an impact assessment and validation for each and every automated decision tool used by the court, the court would need to hire skilled staff to conduct the initial and annual impact assessments, as well as assessments every time a tool is updated (Section 2 requirement).

Below are options or scenarios that assume is this work would need to be done for each and every court under the current definition of "deployer". That could include as many as 179 state trial courts each needing to hire a skilled staff member to conduct assessments and validations of tools used in their court, even if another court in the same county or another court within the state have approved the tool. Different courts could have different analyses of the same tool because of communities' differing make-up of protected classes. Alternatively or in addition, AOC could also need additional staff to provide consulting assistance to the courts as they conduct this work.

For the purposes of this fiscal note, the costs are shown beginning with the effective date of the bill, January 2025. However, it is unlikely courts or the state would be able to staff up and begin the assessments and validation work by the deadline required in the bill.

IMPACT TO THE ADMINISTRATIVE OFFICE OF THE COURTS AND SUPERIOR, DISTRICT AND MUNICIPAL COURTS

The fiscal impact of this bill is indeterminate, but likely significant. Challenges as to estimating its cost impact include:
1.   The extent to which each court makes use of algorithmic tools in their decision making. It is known to vary from court to court.
2.   Given the detailed definition of "algorithmic discrimination" found in the bill, and the extensive reporting requirements, it is difficult to estimate the amount of skilled staff time that would be required to "complete and document" the required impact assessment.
3.   It is also unknown the extent to which the AOC could offer support and technical assistance to courts undertaking these complex assessments.

Given these unknowns, a range of costs is provided below.

AOC Technical Support and Assistance to Courts
Possible Cost: $407,600 per year ongoing

Research staff would look at the information used by the tools, how the information is used, and the impact of using the information in terms of unequal impact across demographic groups. This may include local or statewide assessments, including evaluations and site-based validations, of particular tools. Additionally, the staff would communicate to the court community about the operation and impact of algorithms and artificial intelligence.

Senior Research Associate. Beginning July 1, 2024 and ongoing, AOC would require salary, benefits, and associated standard costs for 2.0 FTE focused on training.

Explanation of standard costs by object:
Salary estimates are current biennium actual rates at Step L.
Benefits are the agency average of 30.59% of salaries.
Goods and Services are the agency average of $3,600 per direct program FTE.
Travel is the agency average of $2,000 per direct program FTE.
Ongoing Equipment is the agency average of $1,800 per direct program FTE.
One-time IT Equipment is $4,800 for the first fiscal year per direct program FTE.
Agency Indirect is calculated at a rate of 25.86% of direct program salaries and benefits.

Superior Court Estimate in all 39 counties, ongoing
Low: 39 courts X $150,000 salary* X 0.08 FTE = $468,000
High: 39 courts X $150,000 salary* X 0.50 FTE = $2,925,000

*Estimated salary and benefits for skilled staff to conduct annual assessments

Courts of Limited Jurisdiction Estimate in all 140 district and municipal courts, ongoing
Low: 140 courts X $150,000 salary* X 0.08 FTE = $1,680,000
High: 140 courts X $150,000 salary* X 0.50 FTE = $10,500,000

*Estimated salary and benefits for skilled staff to conduct annual assessments

CASELOADS
The Office of the Attorney General Civil Rights Division estimates one matter per year. Based on that, this judicial impact note assumes no significant fiscal impact due to additional case filings.

Part III: Expenditure Detail

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

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

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

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

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

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

III. D - FTE Detail

NONE

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

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

NONE

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

NONE

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

NONE

IV. C - Capital Budget Breakout

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

NONE

None

Individual State Agency Fiscal Note

Bill Number:	1951 HB	**Title:**	Algorithmic discrimination	**Agency:**	100-Office of Attorney General

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	4.7	2.4	4.7	4.7
Account					
General Fund-State 001-1	0	1,076,000	1,076,000	2,152,000	2,152,000
Total $	0	1,076,000	1,076,000	2,152,000	2,152,000

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:	Megan Mulvihill	Phone: 360-786-7304	Date: 01/09/2024
Agency Preparation:	Dave Merchant	Phone: 360-753-1620	Date: 01/13/2024
Agency Approval:	Edd Giger	Phone: 360-586-2104	Date: 01/13/2024
OFM Review:	Val Terre	Phone: (360) 280-3973	Date: 01/16/2024

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.

Section 1- Definitions - "Deployer" defined as entity using automated decision tools to make a consequential decision. "Alogrithmic Discrimination" is an unjustified discriminatory result produced by automated decision tool.

Section 2 - By January 1, 2025 and annually or upon significant updates thereafter, deployers and developers must assess and document use of automated decision tools and, upon request, provide assessment to Attorney General's Office (AGO). Assessments exempt from Public Records Act.

Section 3 - Developer of an automated decision tools must inform deployer using the tool of risks, required training, and assessment results.

Section 4 - Developer must make publicly available the types of automated decision tools it supplies and how the developer manages risk of algorithmic discrimination.

Section 5 - AGO may bring action to enforce Act under Chapter 19.86 RCW after giving notice. No right of action under RCW 19.86.090.

Section 6 - Deployer may not use an automated decision tool that results in algorithmic discrimination. Violation of this section is an unfair practice under Chapter 49.60 RCW.

Section 7: New chapter in Title 19 RCW.

II. B - Cash receipts Impact

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

General Fund-State (GF-S) Account 001-1: Attorney General's Office (AGO) Civil Rights Division (CRD) activities are funded with General Fund-State dollars. No cash receipt impact. There is no client agency to bill for legal services.

II. C - Expenditures

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

Attorney General's Office (AGO) Agency Assumptions:

Location of staffing is assumed to be in a King County office building.

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

Agency administration support FTE are included in the tables. The Management Analyst 5 FTE (MA), is used as a representative classification. An example ratio is for every 1.0 Assistant Attorney General FTE (AAG), the AGO includes 0.5 Paralegal 1 FTE (PL) and 0.4 MA.

AGO Civil Rights Division (CRD) activities are funded with General Fund-State dollars. There is no appropriate client agency to bill for legal services.

Algorithmic discrimination
Form FN (Rev 1/00) 190,125.00
FNS063 Individual State Agency Fiscal Note   2

100-Office of Attorney General
Request #   040-1
Bill # 1951 HB

1. Assumptions for CRD legal services:

CRD assumes that the AGO would open at least one matter per year in light of the Legislature's assignment of discretionary, but not mandatory enforcement in these matters. Investigation and litigation for each case will be complex and require technological expert inquiries. Based on CRD's experience in investigating and litigating matters with complex legal standards and involving high level of expert analysis as would be necessary for matters brought by enforcement of this bill, CRD assume that a team of two AAGs, one AGO Senior Investigator/Analyst (INV), and one PL is necessary to staff each of these matters.

CRD: Total King County workload impact:
FY 2025 and in each FY thereafter: $1,076,000 for 2.0 AAG, 1.0 INV and 1.0 PL, which includes direct litigation costs of $300,000.

2. The AGO Government Compliance & Enforcement Division (GCE) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Human Rights Commission (HUM). Section 2 of HB 1951 would establish certain requirements for deployers, which could include state agencies with over 50 employees, who use automated decision tools for consequential decisions as defined in the bill. The requirements would include conducting an impact assessment of the risk of algorithmic discrimination and the safeguards used to minimize those risks. This bill would not apply to many of GCEs small boards and commissions clients that have less than 50 employees. For the larger clients, the requirements could apply, but only to the extent they are using automated decision tools. GCE is unaware of any clients that are using automated decisions tools. To the extent a client begins using an automated decision tool, any legal advice regarding the impact assessments could be nominal.

Section 6 of the bill establishes that it would be a violation under the Washington Law Against Discrimination (WLAD) RCW 49.60 if a deployer uses an automated decision tool that results in algorithmic discrimination, which would allow a person to submit a complaint to the HUM or file a civil complaint. GCE provides general legal advice to HUM and CRD provides enforcement support to HUM. We do not anticipate any impact to GCE because Section 6 would not likely require general legal advice, and any enforcement impacts would affect CRD, not GCE. New legal services are nominal and costs are not included in this request.

3. The AGO Administrative Division (ADM) has reviewed this bill and determined it will not increase or decrease the division's workload. Therefore, no costs are included in this request.

4. The AGO Solicitor General's Office (SGO) has reviewed this bill and determined it will not increase or decrease the division's workload. Therefore, no costs are included in this request.

Part III: Expenditure Detail
III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	1,076,000	1,076,000	2,152,000	2,152,000
		Total $	0	1,076,000	1,076,000	2,152,000	2,152,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		4.7	2.4	4.7	4.7
A-Salaries and Wages		531,000	531,000	1,062,000	1,062,000
B-Employee Benefits		159,000	159,000	318,000	318,000
C-Professional Service Contracts					
E-Goods and Other Services		381,000	381,000	762,000	762,000
G-Travel		5,000	5,000	10,000	10,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total $	0	1,076,000	1,076,000	2,152,000	2,152,000

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
Assistant Attorney General-Seattle	135,555		2.0	1.0	2.0	2.0
Management Analyst 5	95,184		0.7	0.4	0.7	0.7
Paralegal 1-Seattle	72,528		1.0	0.5	1.0	1.0
Senior Investigator-Seattle	105,012		1.0	0.5	1.0	1.0
Total FTEs			4.7	2.4	4.7	4.7

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Civil Rights Division (CRD)		1,076,000	1,076,000	2,152,000	2,152,000
Total $		1,076,000	1,076,000	2,152,000	2,152,000

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.

Algorithmic discrimination
Form FN (Rev 1/00) 190,125.00
FNS063 Individual State Agency Fiscal Note   4

100-Office of Attorney General
Request #   040-1
Bill # 1951 HB