

Multiple Agency Fiscal Note Summary

Bill Number: 1999 HB	Title: Fabricated intimate images
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Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	No fiscal impact					
Loc School dist-SPI						
Local Gov. Other						
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	.0	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
Washington State Patrol	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Children, Youth, and Families	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Corrections	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Total \$	0.0	0	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	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other			633,865						
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			633,865						

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	0	.0	0	0	.0	0	0
Department of Children, Youth, and Families	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Danya Clevenger, OFM	Phone: (360) 688-6413	Date Published: Final 1/26/2024
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Judicial Impact Fiscal Note

Bill Number: 1999 HB	Title: Fabricated intimate images	Agency: 055-Administrative Office of the Courts
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

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: Corey Patton	Phone: 360-786-7388	Date: 01/09/2024
Agency Preparation: Chris Conn	Phone: 360-704-5512	Date: 01/11/2024
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 01/11/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/11/2024

189,681.00

Request # 64-1

Part II: Narrative Explanation

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

This bill creates the crime of disclosing fabricated intimate images.

Section 1 adds new definitions

New Sections 2.4 and 2.6 creates a new class B felony for various acts surrounding the fabrication of images of minors engaging in sexually explicit conduct

New Section 3 creates new gross and simple misdemeanors for anyone under the age of 18 engaging in the conduct outlined in sec. 2, including the minor themselves; when the minor depicted is 12 years of age or younger, the crime is upgraded to class B felony

New Section 15 creates a new gross misdemeanor for the first offense of disclosing fabricated intimate images; additional violations are class C felonies

New Section 21 creates a new civil cause of action for a depicted individual who is identifiable, suffered harm from the intentional or threatened disclosure of the images, and did not give consent, as defined under the section, for such disclosure

II. B - Cash Receipts Impact

None

II. C - Expenditures

No fiscal impact to the Administrative Office of the Courts as this bill does not affect current AOC or court processes.

Part III: Expenditure Detail

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

NONE

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

NONE

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

NONE

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

189,681.00

Form FN (Rev 1/00)

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: 1999 HB	Title: Fabricated intimate images	Agency: 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: Corey Patton	Phone: 360-786-7388	Date: 01/09/2024
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 01/13/2024
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 01/13/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 01/15/2024

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.

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.

HB 1999

FABRICATING INTIMATE OR SEXUALLY EXPLICIT IMAGES AND DEPICTIONS

101 – Caseload Forecast Council
January 10, 2024

SUMMARY

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

- Section 1 Amends RCW 9.68A.011 by adding definitions for “fabricated depiction of a minor” and “digitization”.
- Section 2 Adds a new section to chapter 9.68A RCW establishing the new Class B felony sex offense of Dealing in Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree for persons 18 years of age or older. States each depiction constitutes a separate offense. Ranked at Seriousness Level VII on the Adult Felony Sentencing Grid in Section 18 of the bill.
- Section 2 Additionally establishes the new Class B felony sex offense of Dealing in Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree for persons 18 years of age or older. States each depiction constitutes a separate offense. Ranked at Seriousness Level V on the Adult Felony Sentencing Grid in Section 18 of the bill.
- Section 3 Adds a new section to chapter 9.68A RCW establishing the new gross misdemeanor offense of Minor Dealing in Fabricated Depictions of another Minor 13 years of age or older Engaged in Sexually Explicit Conduct in the First Degree for persons under the age of 18 years.
- Section 3 Additionally establishes the new misdemeanor offense of Minor Dealing in Fabricated Depictions of another Minor 13 years of age or older Engaged in Sexually Explicit Conduct in the Second Degree for persons under the age of 18 years. States each depiction constitutes a separate offense.
- Section 3 Additionally establishes the new Class B felony sex offense of Minor Dealing in Fabricated Depictions of another Minor 12 years of age or younger Engaged in Sexually Explicit Conduct in the First Degree for persons under the age of 18 years. States each depiction constitutes a separate offense (unranked offense).
- Section 3 Additionally establishes the new Class B felony sex offense of Minor Dealing in Fabricated Depictions of another Minor 12 years of age or younger Engaged in Sexually Explicit Conduct in the Second Degree for persons under the age of 18 years. States each depiction constitutes a separate offense (unranked offense).

- Section 3 Additionally establishes the new Class B felony sex offense of Minor Financing or Selling Fabricated Depictions of another Minor Engaged in Sexually Explicit Conduct for persons under the age of 18 years. States each depiction constitutes a separate offense (unranked offense).
- Section 3 Additionally establishes the new misdemeanor offense of Minor Selling Fabricated Depictions of Himself or Herself Engaged in Sexually Explicit Conduct for persons under the age of 18 years. States each depiction constitutes a separate offense.
- Section 4 Adds a new section to chapter 9.68A RCW establishing the new Class B felony sex offense of Sending or Bringing into the State Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree. States each depiction constitutes a separate offense. Ranked at Seriousness Level VII on the Adult Felony Sentencing Grid in Section 18 of the bill.
- Section 4 Additionally establishes the new Class B felony sex offense of Sending or Bringing into the State Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree. States each depiction constitutes a separate offense. Ranked at Seriousness Level V on the Adult Felony Sentencing Grid in Section 18 of the bill.
- Section 5 Adds a new section to chapter 9.68A RCW establishing the new Class B felony sex offense of Possession of Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree. Ranked at Seriousness Level VI on the Adult Felony Sentencing Grid in Section 18 of the bill.
- Section 5 Additionally establishes the new Class B felony sex offense of Possession of Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree. Ranked at Seriousness Level IV on the Adult Felony Sentencing Grid in Section 18 of the bill.
- Section 6 Adds a new section to chapter 9.68A RCW establishing the new Class B felony sex offense of Viewing Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree. States each depiction constitutes a separate offense. Ranked at Seriousness Level IV on the Adult Felony Sentencing Grid in Section 18 of the bill.
- Section 6 Additionally establishes the new Class C felony sex offense of Viewing Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree. States each depiction constitutes a separate offense (unranked offense).
- Section 15 Adds a new section to chapter 9A.86 RCW establishing the offense of Disclosing Fabricated Intimate Images. It is a gross misdemeanor for the first offense; and a Class C felony if the defendant has one or more prior convictions for a violation of this section or RCW 9A.86.010.
- Section 16 Amends RCW 9A.86.010 by making a prior violation of Section 15 of this act a precursor offense resulting in a Class C felony offense of Disclosing Intimate Images.

Section 18 Amends RCW 9.94A.515 by ranking seven of the newly established offenses on the Adult Felony Sentencing Grid.

EXPENDITURES

Assumptions.

None.

Impact on the Caseload Forecast Council.

None.

Impact Summary.

This bill:

- Establishes and ranks seven new Class B felony sex offenses;
- Establishes three new Class B felony sex offenses;
- Establishes one new Class C felony sex offense;
- Establishes one new Class C felony offense with previous offense and one new gross misdemeanor when first offense;
- Establishes one misdemeanor and two gross misdemeanor offenses.

Impacts on Prison, Jail, local detention and Juvenile Rehabilitation (JR) beds

The Caseload Forecast Council has no information concerning how many incidents of the newly established offenses may occur or the sentences that might actually be imposed for the new offenses. As such, the Caseload Forecast Council cannot reliably predict bed impacts resulting from the bill.

However:

As Class B felony offenses ranked at Seriousness Level VII on the Adult felony Sentencing Grid, “Dealing in Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree” and “Sending or Bringing into the State Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree” would be punishable by a standard range term of confinement of between 15-20 months in prison and 87-116 months in prison. Therefore, any impact would be on prison beds only.

As a Class B felony offense ranked at Seriousness Level VI on the Adult felony Sentencing Grid, “Possession of Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree” would be punishable by a standard range term of confinement of between 12.03-14 months in prison and 77-102 months in prison. Therefore, any impact would be on prison beds only.

As Class B felony offenses ranked at Seriousness Level V on the Adult felony Sentencing Grid, “Dealing in Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree” and “Sending or Bringing into the State Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree” would be punishable by a standard range term of confinement of between 6-12 months in jail and 72-96 months in prison. Therefore, any impact would be likely be on prison beds and jail beds.

As Class B felony offenses ranked at Seriousness Level IV on the Adult felony Sentencing Grid, “Possession of Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree” and “Viewing Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree” would be punishable by a standard range term of confinement of between 3-9 months in jail and 63-84 months in prison. Therefore, any impact would be likely be on prison beds and jail beds.

The newly established unranked Class B felony offenses (“Minor Dealing in Fabricated Depictions of another Minor 12 years of age or younger Engaged in Sexually Explicit Conduct in the First Degree and Second Degree” and “Minor Financing or Selling Fabricated Depictions of another Minor Engaged in Sexually Explicit Conduct”) and would be punishable by a standard range term of confinement of 0-12 months in jail. Therefore, any impact would be on jail beds only, except in the case of an aggravated exceptional sentence. However, the statutes specify a person must be under the age of 18 to commit these offenses. It is unlikely there would be any jail or prison bed impact for these offenses.

The newly established unranked Class C felony offenses (“Viewing Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree” and “Disclosing Intimate Images – subsequent offense”) and would be punishable by a standard range term of confinement of 0-12 months in jail. Therefore, any impact would be on jail beds only, except in the case of an aggravated exceptional sentence.

The newly established gross misdemeanor offenses of “Minor Dealing in Fabricated Depictions of another Minor 13 years of age or older Engaged in Sexually Explicit Conduct in the Second Degree” and “Disclosing Fabricated Intimate Images – first offense” would be punishable by a term of confinement of 0 to 364 days in jail. Therefore, any impact would be on jail beds only.

The newly established misdemeanor offense of Minor Dealing in Fabricated Depictions of another Minor 13 years of age or older Engaged in Sexually Explicit Conduct in the Second Degree would be punishable by a term of confinement of 0 to 90 days in jail. Therefore, any impact would be on jail beds only.

The newly established misdemeanor offense of Minor Selling Fabricated Depictions of Himself or Herself Engaged in Sexually Explicit Conduct would be punishable by a term of confinement of 0 to 90 days in jail. Therefore, any impact would be on jail beds only. However, the statute specifies a person must be under the age of 18 to commit this offense. There would be no impact to prison beds and it is unlikely there would be any jail bed impact for this offense.

Impacts on DOC Supervision Population.

The offenses established by bill include 11 sex offenses: seven ranked offenses and four unranked. Upon release from prison, Sex Offenses that are served in prison require 36 months of community custody by the Department of Corrections (DOC). For non-prison releases, 12 months of community custody is required. While CFC has no information about how many more incidents of the expanded felony offense may occur, any additional convictions would result in an increased need for DOC community supervision resources.

Impacts on local detention and Juvenile Rehabilitation (JR) beds,

The bill did not amend the juvenile offender sentencing grid so it is assumed the Class B felony offenses would be considered a Category B (Other Offense Equivalent to an Adult Class B Felony) and punishment would range from Local Sanctions (0-30 days confinement) to 52-65 weeks in a JR facility. Some of the newly established offenses require the person to be 18 years or older, as a result, there may be some of the new offenses that would not result in impact to local detention or JR beds.

For the Class C felony offenses, the offenses would be considered a Category C (Other Offense Equivalent to an Adult Class C Felony) and punishment would range from Local Sanctions (0-30 days confinement) and 15-36 weeks in a JR facility.

Individual State Agency Fiscal Note

Bill Number: 1999 HB	Title: Fabricated intimate images	Agency: 225-Washington State Patrol
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

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

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Corey Patton	Phone: 360-786-7388	Date: 01/09/2024
Agency Preparation: Allison Plant	Phone: 360-596-4080	Date: 01/12/2024
Agency Approval: Mario Buono	Phone: (360) 596-4046	Date: 01/12/2024
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 01/15/2024

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.

The proposed legislation creates an indeterminate fiscal impact to the Washington State Patrol (WSP).

This bill amends the Sexual Exploitation of Children and Disclosing Intimate Images RCWs to include fabricated and digitalized depictions of minors and intimate images.

This bill updates the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act and Table 2 – Crimes included within each seriousness level for inclusion of fabricated and digitalized depictions of minors and intimate images language.

Section 1 is updated to include definitions of fabricated depiction of a minor, fabricated depiction, and digitization.

Section 2 (New): Inclusion of fabricated depiction of a minor mirroring language of RCW 9.68A.050 Dealing in depictions of minor engaged in sexually explicit conduct.

Section 3 (New): Inclusion of fabricated depiction of a minor mirroring language of RCW 9.68A.053 Sexually explicit images – Crimes by minors – Penalties.

Section 4 (New): Inclusion of fabricated depiction of a minor mirroring language of RCW 9.68A.060 Sending, bringing into state depictions of minor engaged in sexually explicit conduct.

Section 5 (New): Inclusion of fabricated depiction of a minor mirroring language of RCW 9.68A.070 Possession of depictions of minor engaged in sexually explicit conduct.

Section 6 (New): Inclusion of fabricated depiction of a minor mirroring language of RCW 9.68A.75 Viewing depictions of a minor engaged in sexually explicit conduct.

Section 15 (New): Inclusion of fabricated depiction mirroring language of RCW 9A.68.020 Disclosing intimate images.

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 currently do not have technology that would assist in the identification of fabricated images. Software that could potentially assist in this is in the beta phase and still being developed. In the future, if the technology becomes available, we may request additional funding.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

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

III. B - Expenditures by Object Or Purpose

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

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

Bill Number: 1999 HB	Title: Fabricated intimate images	Agency: 307-Department of Children, Youth, and Families
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Corey Patton	Phone: 360-786-7388	Date: 01/09/2024
Agency Preparation: Saydee Wilson	Phone: 5098221418	Date: 01/17/2024
Agency Approval: Sarah Emmans	Phone: 360-628-1524	Date: 01/17/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 01/17/2024

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.

This bill adds a definition of "fabricated depiction" and "fabricated depiction of a minor" to statute; defines criminal offenses and determines punishments related to possessing, viewing, creating, and transporting fabricated images or depictions.

II. B - Cash receipts Impact

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

None.

II. C - Expenditures

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

No fiscal impact to Department of Children, Youth and Families. The Information Technology department would need to add 15 new offenses to the Automated Client Tracking System, but this task is minimal and can be absorbed into existing workload.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

None.

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

Bill Number: 1999 HB	Title: Fabricated intimate images	Agency: 310-Department of Corrections
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

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

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Corey Patton	Phone: 360-786-7388	Date: 01/09/2024
Agency Preparation: Matthew Friesen	Phone: (360) 725-8428	Date: 01/25/2024
Agency Approval: Michael Steenhout	Phone: (360) 789-0480	Date: 01/25/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 01/26/2024

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.

An ACT relating to fabricated intimate or sexually explicit images and depictions; amending RCW 9.68A.011, 9.68A.055, 9.68A.080, 9.68A.107, 9.68A.110, 9.68A.120, 9.68A.170, 9.68A.180, 9.68A.190, 9A.86.010, 9A.86.020, 7.110.010, 7.110.020, 7.110.030, 7.110.050, and 7.110.060; reenacting and amending RCW 9.94A.515; adding new sections to chapter 9.68A RCW; adding a new section to chapter 9A.86 RCW; adding a new section to chapter 7.110 RCW; and prescribing penalties.

Section 2(1)(a) adds a new section to chapter 9.68A RCW establishing the new Class B felony sex offense of Dealing in Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree for persons 18 years of age or older. States each depiction constitutes a separate offense. Ranked at Seriousness Level VII on the Adult Felony Sentencing Grid in Section 18 of the bill.

Section 2(1)(b) additionally establishes the new Class B felony sex offense of Dealing in Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree for persons 18 years of age or older. States each depiction constitutes a separate offense. Ranked at Seriousness Level V on the Adult Felony Sentencing Grid in Section 18 of the bill.

Section 3(2)(a) establishes the new Class B felony sex offense of Minor Dealing in Fabricated Depictions of another Minor 12 years of age or younger Engaged in Sexually Explicit Conduct in the First Degree for persons under the age of 18 years. States each depiction constitutes a separate offense (unranked offense).

Section 3(3)(a) additionally establishes the new Class B felony sex offense of Minor Dealing in Fabricated Depictions of another Minor 12 years of age or younger engaged in Sexually Explicit Conduct in the Second Degree for persons under the age of 18 years. States each depiction constitutes a separate offense (unranked offense).

Section 3(3)(b) additionally establishes the new Class B felony sex offense of Minor Financing or Selling Fabricated Depictions of another Minor Engaged in Sexually Explicit Conduct for persons under the age of 18 years. States each depiction constitutes a separate offense (unranked offense).

Section 4(1)(a) adds a new section to chapter 9.68A RCW establishing the new Class B felony sex offense of Sending or Bringing into the State Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree. States each depiction constitutes a separate offense. Ranked at Seriousness Level VII on the Adult Felony Sentencing Grid in Section 18 of the bill.

Section 4(1)(b) additionally establishes the new Class B felony sex offense of Sending or Bringing into the State Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree. States each depiction constitutes a separate offense. Ranked at Seriousness Level V on the Adult Felony Sentencing Grid in Section 18 of the bill.

Section 5(1)(a) adds a new section to chapter 9.68A RCW establishing the new Class B felony sex offense of Possession of Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree. Ranked at Seriousness Level VI on the Adult Felony Sentencing Grid in Section 18 of the bill.

Section 5(2)(a) additionally establishes the new Class B felony sex offense of Possession of Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree. Ranked at Seriousness Level IV on the Adult Felony Sentencing Grid in Section 18 of the bill.

Section 6(1) adds a new section to chapter 9.68A RCW establishing the new Class B felony sex offense of Viewing Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree. States each depiction

constitutes a separate offense. Ranked at Seriousness Level IV on the Adult Felony Sentencing Grid in Section 18 of the bill.

Section 6(2) additionally establishes the new Class C felony sex offense of Viewing Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree. States each depiction constitutes a separate offense (unranked offense).

Section 15 adds a new section to chapter 9A.86 RCW establishing the offense of Disclosing Fabricated Intimate Images. It is a gross misdemeanor for the first offense, and a Class C felony if the defendant has one or more prior conviction for a violation of this section or RCW 9A.86.010.

Section 16 amends RCW 9A.86.010 by making a prior violation of section 15 of this act a precursor offense resulting in a Class C felony offense of Disclosing Intimate Images.

Section 18 amends RCW 9.94A.515 by ranking seven of the established offenses on the Adult Felony Sentencing Grid.

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

II. B - Cash receipts Impact

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

None.

II. C - Expenditures

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

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

The Caseload Forecast Council has no information concerning how many incidents of the newly established offenses may occur or the sentences that might actually be imposed for the new offenses. As such, the Caseload Forecast Council cannot reliably predict bed impacts resulting from the bill.

However:

As Class B felony offenses ranked at Seriousness Level VII on the Adult felony Sentencing Grid, “Dealing in Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree” and “Sending or Bringing into the State Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree” would be punishable by a standard range term of confinement of between 15-20 months in prison and 87-116 months in prison. Therefore, any impact would be on prison beds only.

As a Class B felony offense ranked at Seriousness Level VI on the Adult felony Sentencing Grid, “Possession of Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree” would be punishable by a standard range term of confinement of between 12.03-14 months in prison and 77-102 months in prison. Therefore, any impact would be on prison beds only.

As Class B felony offenses ranked at Seriousness Level V on the Adult felony Sentencing Grid, “Dealing in Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree” and “Sending or Bringing into the State Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree” would be punishable by a standard range term of confinement of between 6-12 months in jail and 72-96 months in prison. Therefore, any impact

would be likely be on prison beds and jail beds.

As Class B felony offenses ranked at Seriousness Level IV on the Adult felony Sentencing Grid, “Possession of Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree” and “Viewing Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree” would be punishable by a standard range term of confinement of between 3-9 months in jail and 63-84 months in prison. Therefore, any impact would be likely be on prison beds and jail beds.

The newly established unranked Class B felony offenses (“Minor Dealing in Fabricated Depictions of another Minor 12 years of age or younger Engaged in Sexually Explicit Conduct in the First Degree and Second Degree” and “Minor Financing or Selling Fabricated Depictions of another Minor Engaged in Sexually Explicit Conduct”) and would be punishable by a standard range term of confinement of 0-12 months in jail. Therefore, any impact would be on jail beds only, except in the case of an aggravated exceptional sentence.

The newly established unranked Class C felony offenses (“Viewing Fabricated Depictions of a Minor Engaged in Sexually Explicit Conduct in the Second Degree” and “Disclosing Intimate Images – subsequent offense”) and would be punishable by a standard range term of confinement of 0-12 months in jail. Therefore, any impact would be on jail beds only, except in the case of an aggravated exceptional sentence.

Impacts on DOC Supervision Population

The offenses established by this bill include 11 sex offenses: seven ranked offenses and four unranked. Upon release from prison, Sex Offenses that are served in prison require 36 months of community custody by the Department of Corrections (DOC). For non-prison releases, 12 months of community custody is required. While CFC has no information about how many more incidents of the expanded felony offense may occur, any additional convictions would result in an increased need for DOC community supervision resources.

INFORMATION TECHNOLOGY IMPACTS

Customization of the Offender Management Network Information (OMNI) system is needed to meet the requirements of this legislation. Due to the complexity of completing the development, testing, and implementation of the statutory changes, contracted services are necessary in FY2025.

To implement this legislation, OMNI data tables need to be updated to RCW 9.94A.525 for technical corrections.

Cost Calculation Estimate:

IT Application Developer| \$185 per hour x 10 hours = \$1850

IT Quality Assurance| \$185 per hour x 8 hours = \$1480

IT Business Analyst| \$185 per hour x 5 hours = \$925

Total One-Time Costs IN FY2025 \$4,000 (rounded to the nearest thousand)

ASSUMPTIONS

1. The estimated ADP impact to DOC prison facilities/institutions and/or community supervision/violator caseloads is based on projections from CFC.

2. For illustration purposes only, the average annual Community Supervision caseload model is \$6,101 per ADP (not including startup costs), regardless of the supervised risk level based on the workload model. If ADP impacts are applicable to this fiscal note, the calculated rate per community supervision ADP includes direct supervision and ancillary units, such as Hearings, Records, and Training, that are directly affected by supervision population changes. The estimate will vary based on the risk level of the supervised individuals, which requires different staffing levels. The population trend data used is based on the Risk Level Classification tool and provides a risk level of 42.8% high violent, 27.3% high non-violent, 21% moderate, 7.9% low, and 1.0% unclassified. (June – November 2017)

3. The DOC assumes that any increase in community supervision caseload will result in an increased need for violator beds. For illustration, the FY2023 average percentage of supervised individuals who served jail time and were billed by the local jurisdictions for violating their conditions of supervision was a rate of 2.0%. The current average daily cost for jail beds is \$114.43 per day, inclusive of all risk levels and healthcare costs. The rate is an average, and actual rates vary by local correctional facilities.

4. We assume a phase-in will be necessary to successfully achieve the reductions/additions needed based on this legislation.

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

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

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

III. B - Expenditures by Object Or Purpose

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

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

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1999 HB	Title: Fabricated intimate images
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities:** Approximately \$471,937 for local law enforcement training on new criminal offenses; indeterminate law enforcement, prosecution and jail expenses as a result of processing incidents of new criminal offenses
- Counties:** Approximately \$161,928 for local law enforcement training on new criminal offenses; indeterminate law enforcement, prosecution, public defense and jail expenses as a result of processing incidents of new criminal offenses
- Special Districts:**
- Specific jurisdictions only:**
- Variance occurs due to:**

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:** Approximately \$633,865 for local law enforcement training on new criminal offenses
- Legislation provides local option:**
- Key variables cannot be estimated with certainty at this time:** Number of incidents of new criminal offenses that may occur and resulting jail sentences

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City		471,937	471,937		
County		161,928	161,928		
TOTAL \$		633,865	633,865		
GRAND TOTAL \$					633,865

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: 01/16/2024
Leg. Committee Contact: Corey Patton	Phone: 360-786-7388	Date: 01/09/2024
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/16/2024
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/16/2024

Part IV: Analysis

A. SUMMARY OF BILL

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

Section 2 of the proposed legislation would add a new section to chapter 9.68A RCW, creating the new class B felony offenses of dealing in fabricated depictions of a minor engaged in sexually explicit conduct in the first and second degree.

Section 3 would add a new section to chapter 9.68A RCW, creating the new criminal offenses of minor dealing in fabricated depictions of another minor 13 years of age or older engaged in sexually explicit conduct in the first and second degree. These offenses would be classified as a gross misdemeanor, and misdemeanor, respectively. This section would also create the new class B felony offenses of minor dealing in fabricated depictions of another minor 12 years of age or younger engaged in sexually explicit conduct in the first and second degree, and minor financing or selling fabricated depictions of another minor engaged in sexually explicit conduct.

Section 4 would add a new section to chapter 9.68A RCW, creating the new class B felony offenses of sending or bringing into the state fabricated depictions of a minor engaged in sexually explicit conduct in the first and second degree.

Section 5 would add a new section to chapter 9.68A RCW, creating the new class B felony offenses of possession of fabricated depictions of a minor engaged in sexually explicit conduct in the first and second degree.

Section 6 would add a new section to chapter 9.68A RCW, creating the new criminal offenses of viewing fabricated depictions of a minor engaged in sexually explicit conduct in the first and second degree. These offenses would be classified as a class B and C felony, respectively.

Section 8 would amend RCW 9.68A.080, requiring people processing or printing visual or printed material who have reasonable cause to believe that material includes fabricated depictions of a minor engaged in sexually explicit conduct to report such material to law enforcement. Failing to do so would make a person guilty of a gross misdemeanor.

Section 15 would add a new section to chapter 9A.86 RCW, creating the new criminal offense of disclosing fabricated intimate images, which would be classified as a gross misdemeanor or class C felony, depending on a person's criminal history.

Section 16 would amend RCW 9A.86.010, specifying that disclosing intimate images would be a class C felony if a person had one or more previous convictions for violations of RCW 9A.86.010, or section 15 of the proposed legislation.

Section 18 would amend RCW 9.94A.515, ranking the following new offenses on the adult felony sentencing grid:

-Seriousness level seven: Dealing in fabricated depictions of minor engaged in sexually explicit conduct in the first degree, sending, bringing into state fabricated depictions of minor engaged in sexually explicit conduct in the first degree

-Seriousness level six: Possession of fabricated depictions of a minor engaged in sexually explicit conduct in the first degree

-Seriousness level five: Dealing in fabricated depictions of minor engaged in sexually explicit conduct in the second degree, sending, bringing into state fabricated depictions of minor engaged in sexually explicit conduct in the second degree

-Seriousness level four: Possession of fabricated depictions of a minor engaged in sexually explicit conduct in the second degree, viewing of fabricated depictions of a minor engaged in sexually explicit conduct in the first degree.

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.

The proposed legislation would require \$633,865 in one-time local government costs, in addition to other indeterminate expenditure impacts.

According to the Washington Association of Sheriffs and Police Chiefs (WASPC), all local law enforcement officers would need to go through training regarding the new criminal offenses that this bill would create. WASPC estimates that approximately one hour of training would be required per law enforcement officer. This training would require a one-time cost of \$471,937 for cities and \$161,928 for counties, for a total one-time cost to local governments of \$633,865.

The 2022 Crime in Washington Report conducted by WASPC states that there are 6,647 commissioned officers in police departments and 2,249 commissioned officers in sheriff's departments, for a total of 8,896 commissioned law enforcement employees that would require training. The 2024 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 \$71, and the same figure for an officer employed by a county to be \$72. If every officer in Washington had to complete approximately one hour of training, the cost to local governments would be:

Cities:

6,647 officers X 1 hour X \$71 average hourly salary plus benefits and overhead = \$471,937

Counties:

2,249 officers X 1 hour X \$72 average hourly salary plus benefits and overhead = \$161,928

Total:

\$471,937 + \$161,928 = \$633,865

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

Local law enforcement, prosecutors, and in some cases public defenders, would incur costs as a result of processing incidents of the new criminal offenses that the proposed legislation would create. It is unknown how many such incidents may occur, however, so the resulting expenditure impact is indeterminate. The 2024 Local Government Fiscal Note Program Criminal Justice Cost Model estimates that the combined law enforcement, prosecution and public defense costs of processing an incident of an obscene material offense range from \$2,117 to \$6,917, depending on the severity of the offense.

According to the Washington State Caseload Forecast Council's fiscal note for this bill, the creation of the following offenses could impact demand for jail beds:

-Dealing in fabricated depictions of a minor engaged in sexually explicit conduct in the second degree, and sending or bringing into the state fabricated depictions of a minor engaged in sexually explicit conduct in the second degree (punishable by between six to 12 months in jail, and 72 to 96 months in prison)

-Possession of fabricated depictions of a minor engaged in sexually explicit conduct in the second degree, and viewing fabricated depictions of a minor engaged in sexually explicit conduct in the first degree (punishable by between three to nine months in jail, and 63 to 84 months in prison)

-Minor dealing in fabricated depictions of another minor 12 years of age or younger engaged in sexually explicit conduct in the first degree and second degree, and minor financing or selling fabricated depictions of another minor engaged in sexually explicit conduct (punishable by between zero and 12 months in jail)

-Viewing fabricated depictions of a minor engaged in sexually explicit conduct in the second degree (punishable by between zero and 12 months in jail)

-Minor dealing in fabricated depictions of another minor 13 years of age or older engaged in sexually explicit conduct in the second degree, and disclosing fabricated Intimate images – first offense (punishable by between zero and 364 days in jail)

-Minor dealing in fabricated depictions of another minor 13 years of age or older engaged in sexually explicit conduct in

the second degree (punishable by between zero and 90 days in jail)

It is unknown however, how many incidents of the above offenses may occur, or what the resulting sentences may be, so the local government expenditure impact resulting from an increased demand for jail beds is indeterminate. The 2024 Local Government Fiscal Note Program Criminal Justice Cost Model estimates that the average daily cost to occupy a jail bed is \$145.

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.

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

SOURCES:

Crime in Washington Report, 2022

Local Government Fiscal Note Program Criminal Justice Cost Model, 2024

Washington Association of Sheriffs and Police Chiefs

Washington State Caseload Forecast Council