# **Multiple Agency Fiscal Note Summary**

Bill Number: 2001 HB Title: Sentence modification

# **Estimated Cash Receipts**

NONE

Agency Name	2023-25		2025	-27	2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other	Fiscal note not available					
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	Non-ze	ro but indeterm	ninate cost and/	or savings. Pl	ease see	discussion.						
Office of Public Defense	Fiscal n	ote not availab	ole									
Caseload Forecast Council	.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	l 0	l 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-z	ero but indeterm	inate cost and	l/or savi	ings. Please see	e discussion.			
Loc School dist-SPI									
Local Gov. Other	Fiscal note not available								
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 Public Defense	Fiscal 1	note not availabl	e						
Caseload Forecast Council	.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	Non-z	ero but indeterm	inate cost and	d/or savi	ngs. Please see	discussion.			
Loc School dist-SPI									
Local Gov. Other	Fiscal	note not availab	le						
Local Gov. Total									

# **Estimated Capital Budget Breakout**

Prepared by: Danya Clevenger, OFM	Phone:	Date Published:
	(360) 688-6413	Preliminary 1/29/2024

# **Judicial Impact Fiscal Note**

<b>Bill Number:</b> 2001 HB	Title: Sentence modification	Agency:	055-Administrative Office of the Courts
Part I: Estimates			
No Fiscal Impact			
<b>Estimated Cash Receipts to:</b>			
NONE			
Estimated Expenditures from:			
Non-ze	ero but indeterminate cost and/or savings.	Please see discussion.	
Estimated Capital Budget Impact:			
NONE			
The revenue and expenditure estimate subject to the provisions of RCW 43.1	s on this page represent the most likely fiscal imp 35,060	pact. Responsibility for expendi	tures may be
Check applicable boxes and follow	v corresponding instructions:		
If fiscal impact is greater than Parts I-V.	\$50,000 per fiscal year in the current bienni	um or in subsequent biennia	, complete entire fiscal note fo
	0,000 per fiscal year in the current biennium	or in subsequent biennia, co	omplete this page only (Part I).
Capital budget impact, compl	ete Part IV.		
Legislative Contact Corey Pattor	1	Phone: 360-786-7388	Date: 01/17/2024
Agency Preparation: Chris Conn		Phone: 360-704-5512	Date: 01/23/2024
Agency Approval: Chris Stanle	y	Phone: 360-357-2406	Date: 01/23/2024
OFM Review: Gaius Horto	n	Phone: (360) 819-3112	Date: 01/23/2024

 191,629.00
 Request # 104-1

 Form FN (Rev 1/00)
 1

 Bill # 2001 HB

#### **Part II: Narrative Explanation**

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

This bill relates to providing judicial discretion to modify sentences in the interests of justice.

#### II. B - Cash Receipts Impact

None

#### II. C - Expenditures

Indeterminate, but likely to increase the number of petitions. The Administrative Office of the Courts (AOC) has no data available in the case management systems to estimate the number of potential petitions that would be filed as a result of this bill. Nor can AOC provide exact workload metrics as the impact is unknown.

### **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** 

191,629.00 Request # 104-1

Form FN (Rev 1/00) 2 Bill # 2001 HB

None

# **Individual State Agency Fiscal Note**

<b>Bill Number:</b> 2001 HB	Title: Sentence modification	Agency	y: 101-Caseload Forecast Council
Part I: Estimates		•	
X No Fiscal Impact			
Estimated Cash Receipts to:			
NONE			
<b>Estimated Operating Expendi</b> NONE	tures from:		
Estimated Capital Budget Imp	act:		
NONE			
The cash receipts and expenditu and alternate ranges (if approp	ire estimates on this page represent the mos	st likely fiscal impact. Factors impacting	g the precision of these estimates,
	Collow corresponding instructions:		
If fiscal impact is greater form Parts I-V.	than \$50,000 per fiscal year in the curr	rent biennium or in subsequent bienr	nia, complete entire fiscal note
	nn \$50,000 per fiscal year in the curren	t biennium or in subsequent biennia,	complete this page only (Part I
Capital budget impact, co	omplete Part IV.		
Requires new rule making	•		
Legislative Contact: Core	y Patton	Phone: 360-786-7388	Date: 01/17/2024
	Steelhammer	Phone: 360-664-9381	Date: 01/19/2024
	Steelhammer	Phone: 360-664-9381	Date: 01/19/2024
OFM Review: Dany	a Clevenger	Phone: (360) 688-6413	Date: 01/23/2024

## **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 2001**

# PROVIDING JUDICAL DISCRETION TO MODIFY SENTENCES IN THE INTEREST OF JUSTICE

101 – Caseload Forecast Council January 17, 2024

#### **SUMMARY**

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

- Section 1 States the act shall be known as the judicial discretion act.
- Section 2 States the legislative intent is to authorize sentencing courts to review lengthy sentences upon a showing a person's original sentence no longer serves the interests of justice.
- Section 3 Adds a new section to chapter 9.94A RCW by establishing a process for any person under a term of partial or total confinement or subject to supervision by the Department for a felony conviction to petition the sentencing court if the original sentence no longer serves the interest of justice and the person meets the following criteria:
  - If serving a sentence for a felony committed at 18 years of age or older, the person can petition after serving at least 10 years;
  - If serving a sentence for a felony committed at 17 years of age or younger, the person can petition after serving at least 7 years; or
  - If not meeting the criteria above, the person may petition with the consent of the prosecuting attorney.

Additionally: establishes the criteria for the petition and states the person must meet one or more of the specified requirements for a hearing, sets court requirements for responding to a petition, requires the prosecuting attorney to make reasonable efforts to notify victims and survivor of victims of any petition filed pursuant to this section and the date of the hearing, states any incarcerated individual who is eligible to file a petition and is who is unable to afford counsel shall be entitled to have counsel appointed at no cost to the individual; and, outlines the Department of Corrections' (DOC) notification requirements to any incarcerated individuals, sentencing courts, prosecuting attorney, and public defense agency for the judicial district in which the individual was sentenced.

- Section 4 Amends RCW 10.73.100 to include a petition for a modification of sentence pursuant to Section 3 of this act.
- Section 5 Adds a new section that requires no less than 25% of the savings realized as a result of Section 3 to be designated to fund the costs associated with petitions and proceedings under Section 3 of this act.

#### **EXPENDITURES**

Assumptions.

None.

#### Impact on the Caseload Forecast Council.

None.

#### **Impact Summary**

This bill allows for individuals to petition the court for a sentencing modification if they meet the specified criteria.

#### Impact on prison and jail beds.

The bill allows for individuals to petition the sentencing court for a sentence modification after meeting certain criteria. A sentence modification cannot result in a longer sentence, so any modifications made would likely decrease the need for prison beds.

This bill has no impact on jail beds.

#### Impact on local and Juvenile Rehabilitation (JR) beds.

This bill has no impact on local detention or JR beds.

#### **Impact on Community Corrections Caseload.**

The bill does not amend any supervision requirements under existing statutes but does allow a person subject to conditions of supervision by DOC to petition the sentencing court for a sentence modification, with the consent of the prosecuting attorney. The CFC has no way of determining who will petition, if the prosecuting attorney will consent to having a sentence modification, and what term of supervision the court would impose if the sentence were modified. However, a sentence modification cannot result in a longer term, so any modifications made would likely decrease the Community Corrections caseload.

#101-24-035-1

# **Individual State Agency Fiscal Note**

Bill Number: 2001 HB	Title: Sentence modification	Agency:	310-Department of Corrections
Part I: Estimates			
No Fiscal Impact			
<b>Estimated Cash Receipts to:</b>			
NONE			
Estimated Operating Expenditure	es from:		
Non-zer	ro but indeterminate cost and/or savings.	Please see discussion.	
Estimated Capital Budget Impact	:		
NONE			
The cash receipts and expenditure e and alternate ranges (if appropriate	estimates on this page represent the most likely fi e), are explained in Part II.	iscal impact. Factors impacting t	he precision of these estimates,
Check applicable boxes and follo			
X If fiscal impact is greater that form Parts I-V.	n \$50,000 per fiscal year in the current bien	nium or in subsequent biennia	, complete entire fiscal note
	50,000 per fiscal year in the current bienniu	ım or in subsequent biennia, co	omplete this page only (Part I)
Capital budget impact, comp	olete Part IV.		
Requires new rule making, c	complete Part V.		
Legislative Contact: Corey Pa	atton	Phone: 360-786-7388	Date: 01/17/2024
Agency Preparation: Matthew	Friesen	Phone: (360) 725-8428	Date: 01/24/2024
Agency Approval: Michael	Steenhout	Phone: (360) 789-0480	Date: 01/24/2024
OFM Review: Danya C	llevenger	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 providing judicial discretion to modify sentences in the interests of justice; amending RCW 10.73.100; adding a new section to chapter 9.94A RCW; and creating new sections.

Section 2 states the legislative intent is to authorize sentencing courts to review lengthy sentences upon showing a person's original sentence no longer serves the interests of justice.

Section 3 adds a new section to chapter 9.94A RCW by establishing a process for any person under a term of partial or total confinement or subject to supervision by the Department of Corrections (DOC) for a felony conviction to petition the sentencing court if the original sentence no longer serves the interest of justice and the person meets the following criteria: if serving a sentence for a felony committed at 18 years of age or older, the person can petition after serving at least 10 years; if serving a sentence for a felony committed at 17 years of age or younger, the person can petition after serving at least 7 years; or if not meeting the criteria above, the person may petition with the consent of the prosecuting attorney.

Section 3 additionally establishes the criteria for the petition and states the person must meet one or more of the specified requirements for a hearing, sets court requirements for responding to a petition, requires the prosecuting attorney to make reasonable efforts to notify victims and survivor of victims of any petition filed pursuant to this section and the date of the hearing, states any incarcerated individual who is eligible to file a petition and is who is unable to afford counsel shall be entitled to have counsel appointed at no cost to the individual; and, outlines DOC's notification requirements to any incarcerated individuals, sentencing courts, prosecuting attorney, and public defense agency for the judicial district in which the individual was sentenced.

Section 4 amends RCW 10.73.100 to include a petition for a modification of sentence pursuant to Section 3 of this act.

Section 5 adds a new section that requires no less than 25% of the savings realized as a result of Section 3 to be designated to fund the costs associated with petitions and proceedings under Section 3 of this act.

Effective date is assumed 90 days after adjournment of the 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 greater than \$50,000 per Fiscal Year (FY).

Prospectively, the bill allows for individuals to petition the sentencing court for a sentence modification after meeting certain criteria. A sentence modification cannot result in a longer sentence, so any modifications made would likely decrease the need for prison beds.

Retrospectively, there are 2,552 incarcerated individuals in DOC's jurisdiction who are serving a sentence for a felony

committed at 18 years of age or older and have served at least 10 years of their sentence, and 135 incarcerated individuals who are serving a sentence for a felony committed at 17 years of age or younger and have served at least 7 years of their sentence. Under the proposed legislation these individuals would be eligible to petition for resentencing. The DOC does not have the capability to predict how often or in what circumstances the courts would exercise their sentencing authority; therefore, the fiscal impact for this proposed legislation is indeterminate.

The bill does not amend any supervision requirements under existing statutes but does allow a person subject to conditions of supervision by DOC to petition the sentencing court for a sentence modification, with the consent of the prosecuting attorney. The CFC has no way of determining who will petition, who the prosecuting attorney will consent to having a sentence modification, and what term of supervision the court would impose if the sentence were modified. However, a sentence modification cannot result in a longer sentence, so any modifications made would likely decrease the Community Corrections caseload.

Administrative costs associated with responding to requests, petitions, and proceedings relating to this bill are expected, which include but are not limited to: Providing notice to the incarcerated individuals, sentencing court, prosecutor, and defense agency; Law Library material to petition for consideration of sentence modification; DOC records to support the petition for consideration; and transition support and release funds/resources if an incarcerated individual is resentenced to an immediate release. As outlined in Section 5(2), no less than 25 percent of the cost savings realized as a result of resentencing shall be designated to fund the costs associated with petitions and proceedings. However, due to the indeterminate number and outcomes of petitions for resentencing, the administrative cost to DOC is also indeterminate.

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 120 hours = \$22,200

IT Business Analyst | \$185 per hour x 8 hours = \$1,480

IT Quality Assurance | \$185 per hour x 60 hours = \$11,100

Total One-Time Costs In FY2025 \$35,000 (Rounded to nearest thousand)

The DOC assumes this bill would likely result in an Average Daily Population (ADP) decrease, although the impact cannot be reliably estimated. Therefore, the fiscal impact is indeterminate, assumed to be a savings of more than \$50,000 per FY.

#### Assumptions:

- 1) The estimated ADP impact to DOC prison facilities/institutions and/or community supervision/violator caseloads is based on projections from CFC.
- 2) We assume a Direct Variable Cost (DVC) of \$7,630 per incarcerated individual per FY to facilitate cost discussions during legislative session for bills. This cost estimate includes prison and health services' direct variable costs. It does not include staffing or dollars necessary for staffing needed at the facility outside of the living/housing units. The DVC is calculated by DOC and reviewed and approved with the Office of Financial Management, Senate, and House staff each legislative session.
- 3) 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%

Bill # 2001 HB

moderate, 7.9% low, and 1.0% unclassified. (June – November 2017)

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

#### 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.