

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5971 SB	<b>Title:</b> Offender score recal.
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## 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 Public Defense	.0	284,000	284,000	284,000	3.0	1,292,888	1,292,888	1,292,888	3.0	1,292,888	1,292,888	1,292,888
Office of the Governor	.5	160,000	160,000	160,000	1.0	310,000	310,000	310,000	1.0	310,000	310,000	310,000
Office of Attorney General	.0	0	0	0	.0	0	0	0	.0	0	0	0
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Children, Youth, and Families	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Corrections	Fiscal note not available											
Total \$	0.5	444,000	444,000	444,000	4.0	1,602,888	1,602,888	1,602,888	4.0	1,602,888	1,602,888	1,602,888

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

## Estimated Capital Budget 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	.0	0	0	.0	0	0	.0	0	0
Office of the Governor	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Children, Youth, and Families	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	Fiscal note not available								
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

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

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Danya Clevenger, OFM	<b>Phone:</b> (360) 688-6413	<b>Date Published:</b> Preliminary 2/ 1/2024
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# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5971 SB	<b>Title:</b> Offender score recal.	<b>Agency:</b> 055-Administrative Office of the Courts
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**Part I: Estimates**

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Expenditures from:**

**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:

- 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: Kevin Black	Phone: (360) 786-7747	Date: 01/09/2024
Agency Preparation: Chris Conn	Phone: 360-704-5512	Date: 01/18/2024
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 01/18/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/19/2024

190,404.00

Request # 60-1

## Part II: Narrative Explanation

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

This bill recalculates sentencing ranges for currently incarcerated individuals whose offender score was increased by juvenile convictions that are no longer scorable.

### II. B - Cash Receipts Impact

None

### II. C - Expenditures

Indeterminate. Case filings may increase, but the number is likely low. The Administrative Office of the Courts (AOC) has no data available to estimate the number of resentencing motions 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

190,404.00

Form FN (Rev 1/00)

None

190,404.00

Form FN (Rev 1/00)

3

Request # 60-1

Bill # 5971 SB

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5971 SB	<b>Title:</b> Offender score recal.	<b>Agency:</b> 056-Office of Public Defense
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0	3.0	3.0
<b>Account</b>					
General Fund-State      001-1	0	284,000	284,000	1,292,888	1,292,888
<b>Total \$</b>	0	284,000	284,000	1,292,888	1,292,888

### 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: Kevin Black	Phone: (360) 786-7747	Date: 01/09/2024
Agency Preparation: Katrin Johnson	Phone: 360-586-3164 1	Date: 01/29/2024
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 01/29/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/30/2024

## 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 Office of Public Defense (OPD) would provide for public defense assistance statewide under SB 5971 because of the following language in RCW 2.70.020(3), which became effective January 1, 2024: "The director shall... Subject to the availability of funds appropriated for this specific purpose, appoint counsel to petition the sentencing court if the legislature creates an ability to petition the sentencing court, or appoint counsel to challenge a conviction or sentence if the final decision of an appellate court creates the ability to challenge a conviction or sentence."

SB 5971, Section 2: Adds a new section to chapter 9.94A RCW that permit peoples to petition the court for resentencing if they meet certain eligibility requirements and have a current offender score that includes juvenile adjudications that are not scorable under RCW 9.94A.525.

Individuals eligible to motion the court for resentencing under this section must be currently incarcerated in total confinement with a release date of January 1, 2025 and later, and until January 1, 2027 the person must:

- Have a release date within three years, or would be eligible for release within three years based on an offender score recalculation that omits juvenile adjudications not scorable under RCW 9.94A.525; or
- Have served over 15 years of their sentence; or
- Have served at least 50% of their sentence.

SB 5971, Section 3: Provides that beginning January 1, 2027, this section applies to all individuals meeting the requirements of Section 2.

### II. B - Cash receipts Impact

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

### II. C - Expenditures

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

It is assumed that OPD would provide for public defense assistance statewide under SB 5971 because of the following language in RCW 2.70.020(3), which became effective January 1, 2024: "The director shall... Subject to the availability of funds appropriated for this specific purpose, appoint counsel to petition the sentencing court if the legislature creates an ability to petition the sentencing court, or appoint counsel to challenge a conviction or sentence if the final decision of an appellate court creates the ability to challenge a conviction or sentence."

It is further assumed that approximately 1,200 individuals incarcerated in the Washington State Department of Corrections would be eligible for resentencing hearings under SB 5971. This figure is assumed based on data collected from other external agencies that have commented on this bill or its House companion, and on related bills in the 2023 Legislative Session (HB 1324/SB 5457).

Additionally, it is assumed that OPD would utilize its current staffing infrastructure in place for State v. Blake operations to carry out functions under SB 5971. For purpose of this Fiscal Note, OPD assumes that the FTEs of this post-conviction trial level team will be funded exclusively by Blake funds in FY 2025. In FY 2026 and FY 2027 it is anticipated that the post-conviction trial level team will be funded 50% by funds allocated under SB 5971.

#### A. Salaries and Wages:

OPD seeks no funds for salaries and wages in FY 2024 and FY 2025, because functions under this bill will be absorbed by

current staff addressing State v. Blake related resentencing work. OPD's Blake team currently has the infrastructure and experience for handling functions related to identifying individuals who are eligible for resentencing, contracting with public defense counsel to represent eligible individuals, analyzing data provided by multiple sources to track program progress, and communicating with impacted communities to ensure awareness of available services and manage expectations. OPD seeks funding for one-half of its existing staff team to carry out these programmatic functions for SB 5971 in FY 2026 and subsequent years.

This staffing includes:

- One 0.5 FTE Managing (Triage) Attorney to oversee case triage efforts. Triage includes analysis of each individual's Judgment and Sentence to identify eligibility for sentence recalculation, and assigning priority for representation based on the individual's projected new score and release date. Cost: \$63,600
- One 0.5 FTE Paralegal to support the work of the Managing (Triage) Attorney. Cost: \$41,792
- One 0.5 FTE Managing Attorney to recruit, contract with, train, and monitor attorney contractors to represent the eligible individuals for resentencing under HB 2065. Cost: \$63,600
- One 0.5 FTE Program Assistant to support the work of the Managing Attorney. Cost: 34,536
- One 0.5 FTE Data Analyst to collect, track, and analyze data to track work completed. Cost: \$53,336
- One 0.5 FTE Community Outreach Specialist to communicate with incarcerated individuals and their support networks about the availability of resentencing, the eligibility criteria, and the process for requesting information from OPD. Cost: \$41,007

The anticipated total for salaries is \$297,085 per year, and is identified at Expenditure Object A (Salaries and Wages).

#### B. Employee Benefits

Employee benefits are calculated at 22% of employees' salaries. The anticipated total for benefits is \$65,359 per year, and is identified at Expenditure Object B (Employee Benefits).

#### C. Client Services

It is anticipated that OPD will enter into contracts for legal representation of eligible individuals under SB 5971. Contractors may be individual attorneys, multi-attorney firms, non-profit public defense agencies, and/or county public defense agencies. Contractors may be assigned to multi-county regions of the state to ensure effective, trained representation for individuals regardless of their sentencing county. It is anticipated that attorneys will be contracted at \$150.00 per hour, and the average length of time for resentencing cases under SB 5971 will be eight hours per case. It is anticipated that a full-time OPD contracted attorney will handle an average of 200 resentencing cases per year.  $\$150 \times 8 \text{ hrs} \times 200 \text{ cases} = \$240,000/\text{year}$ .

It is anticipated that approximately 10% of the cases will require expert services, at an average cost of \$1,500 per case.  $200 \text{ cases} \times 10\% \times \$1,500 = \$30,000/\text{year}$ .

Total cost per year for client services is \$270,000, and is identified at Expenditure Object E (Grants, Benefits, & Client Services).

#### G. Travel

It is anticipated that there will be travel costs for both OPD staff and for contract attorneys.

OPD Staff: It is anticipated that OPD staff will travel within Washington for purposes of: (1) visiting DOC facilities to help communicate about the program to incarcerated individuals; and (2) visiting with and observing contract attorneys for purposes of monitoring performance. It is anticipated that in-state travel costs for OPD employees will be approximately \$1,000 per quarter, or \$4,000 per year.

OPD Contract attorneys: It is anticipated that OPD will enter into contracts with attorneys who will provide representation under SB 5971 in multi-county regions. By contracting with fewer attorneys who represent larger regions, OPD can better streamline and centralize its recruitment, training, and contracting efforts. Contracted attorneys will therefore need reimbursement for occasional travel expenses, such as traveling to the courts for hearings in jurisdictions different than their office location (pursuant to SAAM guidelines), and potentially for meeting with clients or groups of potential clients in DOC



facilities. It is anticipated that in-state travel cost for OPD contractors will be approximately \$2,500 per quarter, or \$10,000 per year.

Total cost per year for travel is \$14,000 and is identified at Expenditure Object G (Travel).

**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	284,000	284,000	1,292,888	1,292,888
<b>Total \$</b>			0	284,000	284,000	1,292,888	1,292,888

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years				3.0	3.0
A-Salaries and Wages				594,170	594,170
B-Employee Benefits				130,718	130,718
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel		14,000	14,000	28,000	28,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services		270,000	270,000	540,000	540,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	284,000	284,000	1,292,888	1,292,888

**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
Community Outreach Specialist	82,013				0.5	0.5
Data Analyst	106,672				0.5	0.5
Managing Attorney	127,200				1.0	1.0
Paralegal	82,013				0.5	0.5
Program Assistant	69,072				0.5	0.5
<b>Total FTEs</b>					3.0	3.0

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

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

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

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5971 SB	<b>Title:</b> Offender score recal.	<b>Agency:</b> 075-Office of the Governor
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	1.0	0.5	1.0	1.0
<b>Account</b>					
General Fund-State      001-1	0	160,000	160,000	310,000	310,000
<b>Total \$</b>	0	160,000	160,000	310,000	310,000

### 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: Kevin Black	Phone: (360) 786-7747	Date: 01/09/2024
Agency Preparation: Kathy Cody	Phone: (360) 480-7237	Date: 01/25/2024
Agency Approval: Jamie Langford	Phone: (360) 870-7766	Date: 01/25/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 01/29/2024

## 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 2. A new section is added to chapter 9.94A RCW to read as follows:

(1) Any person sentenced for an offense committed prior to July 23, 2023, whose offender score was increased due to any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition is filed shall be entitled to a resentencing hearing upon the offender's motion for relief from sentence to the original sentencing court if they meet criteria as specified in the bill.

(2) The sentencing court shall grant the motion if it finds that the person is currently incarcerated in total confinement, has a release date of January 1, 2025, or later, and the previous offender score was increased due to any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition was filed. The court shall immediately set an expedited date for resentencing. At resentencing, the court shall sentence the offender as if any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition was filed were not part of the offender score at the time the original sentence was imposed.

(3) Beginning January 1, 2027, this section applies to all individuals meeting the requirements of subsection (2) of this section.

These sections would likely increase the number of urgent calls with requests for assistance to OCO's confidential hotline. The callers will request self-advocacy assistance with navigating the process of recalculating sentencing ranges for offender scores increased by juvenile convictions. The callers will also request assistance with understanding how the DOC interprets this legislation, the timeline surrounding resentencing, and current confinement status.

### II. B - Cash receipts Impact

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

### II. C - Expenditures

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

OCO assumes hiring the following position to implement the bill no earlier than July 1, 2024:

Early Resolution Ombuds, 1 (1.0 FTE); \$55,000/year. Duties will include intake on the OCO hotline related to the recalculating sentencing ranges for offender scores increased by juvenile convictions. This position will also work on concerns related to how DOC interprets this legislation, the timeline surrounding resentencing, and current confinement status.

Goods and services: Based on average employee costs, the Office requests ongoing funding for supplies and materials, communications and telecommunications services, lease space, training, software licensing and maintenance at \$3,000 per year, per FTE.

Travel: The Office requests ongoing funding for travel associated with these positions at \$6,000 per year, per FTE. OCO has unique needs because the population served is incarcerated. This accommodates frequent overnight travel to prisons and reentry centers around the state.

Capital Outlays: The Office requests one-time funding for purchasing equipment at \$5,000 per FTE.

Shared Service Costs: The Office of Financial Management provides administrative support for the Office of Financial Management, Office of the Governor, and Office of Independent Investigations. These services include IT support, budget and accounting services, facilities support, and human resource assistance. To fund these shared services, each budgeted FTE is assessed an ongoing cost of \$30,000 and 0.22 of an FTE. Based on the average salary for those providing these services, we estimate the cost for a new FTE at \$30,000 per year including salary, benefits, equipment, and support costs.

Additional expenses are as follows:

1. Records retention and records request administrative and software costs associated with the implementation of this bill is estimated at \$23,000.

2. Legal services from AGO may be required as a result of this bill. There may be an increase in the volume of subpoena of records related to litigation against the DOC from incarcerated individuals and/or their family members that the OCO will receive. This would increase the amount of AGO hours needed to defend the OCO's confidentiality statute. The impact of such litigations is unknown as the number and complexity of cases filed cannot be predicted. OCO estimates the need for additional legal services will average 5 hours monthly (60 hours annually) and will be ongoing. Estimate of \$12,500.

### 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	160,000	160,000	310,000	310,000
<b>Total \$</b>			0	160,000	160,000	310,000	310,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		1.0	0.5	1.0	1.0
A-Salaries and Wages		55,000	55,000	110,000	110,000
B-Employee Benefits		25,000	25,000	50,000	50,000
C-Professional Service Contracts					
E-Goods and Other Services		39,000	39,000	78,000	78,000
G-Travel		6,000	6,000	12,000	12,000
J-Capital Outlays		5,000	5,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements		30,000	30,000	60,000	60,000
9-					
<b>Total \$</b>	0	160,000	160,000	310,000	310,000

#### 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
Early Resolution Ombuds - 1	55,000		1.0	0.5	1.0	1.0
<b>Total FTEs</b>			1.0	0.5	1.0	1.0

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

NONE

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

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

NONE

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

NONE

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

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

NONE

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

NONE

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

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5971 SB	<b>Title:</b> Offender score recal.	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 01/09/2024
Agency Preparation: Cassandra Jones	Phone: 360-709-6028	Date: 01/31/2024
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 01/31/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 02/01/2024

## 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—New section. Legislative findings.

Section 2—New section. Entitles any person sentenced for an offense committed prior to July 23, 2023, whose offender score was increased due to any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition is filed, to a resentencing hearing if specified criteria are met. Requires a sentencing court to resentence the person as if any such juvenile adjudications were not part of the offender score if certain findings are made. Applies the section to all qualified individuals on January 1, 2027.

1. The Attorney General's Office (AGO) Children, Youth, and Families Division (CYF) has reviewed this bill and determined it will not increase or decrease the division's workload in representing the Department of Children, Youth, and Families (DCYF). The enactment of this bill will not impact the provision of legal services to DCYF because DCYF generally has no role during sentencing hearings for adults, even juveniles convicted as adults. The AGO does not represent DCYF in resentencing hearings. Therefore, no costs are included in this request.

2. The AGO Corrections Division (COR) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Corrections (DOC). The AGO would not be directly involved in the resentencing proceedings mandated by the bill. Any requests for legal advice concerning the impact of the bill on DOC or the Indeterminate Sentence Review Board (ISRB) are nominal. Therefore, no costs are included in this request.

3. The Office of Corrections Ombuds (OCO) and COR have reviewed this bill and determined that there may be an impact of 60 hours per FY for legal services. This will create a financial impact to the AGO of \$9,000 per FY. New legal services are nominal and costs are not included in this request.

### II. B - Cash receipts Impact

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

### II. C - Expenditures

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

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

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

NONE



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

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5971 SB	<b>Title:</b> Offender score recal.	<b>Agency:</b> 101-Caseload Forecast Council
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Kevin Black	Phone: (360) 786-7747	Date: 01/09/2024
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 01/12/2024
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 01/12/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 01/18/2024

## 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.*

# **SB 5971**

## **SCORING OF PRIOR JUVENILE OFFENSES IN SENTENCING RANGE CALCULATIONS**

**101 – Caseload Forecast Council  
January 11, 2024**

### **SUMMARY**

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

Section 1 Intent section.

Section 2 Adds a new section to chapter 9.94A RCW that states any person sentenced for an offense committed prior to July 23, 2023, and whose score was increased due to juvenile adjudication(s) that are not scorable under current law is entitled to a resentencing hearing upon the offender’s motion for relief if the person is currently incarcerated in total confinement and has a release date of January 1, 2025, or later; and, until January 1, 2027 the person:

- Has a release date on the sentence within three years, or the person would be eligible for release on the sentence within three years if resentenced to a standard range sentence based on a score that does not include offenses that are not scorable under RCW 9.94A.525; or
- Has served over 15 years of their sentence; or
- Has served at 50% of their sentence.

Section 3 Additionally states that beginning January 1, 2027, this section applies to individuals meeting the requirements of subsection (2) of this section.

### **EXPENDITURES**

**Assumptions.**

None.

**Impact on the Caseload Forecast Council.**

None.

**Impact Summary**

This bill:

- Reduces offender scores for some individuals currently incarcerated.

**Impact on prison and jail beds**

The bill applies changes regarding which juvenile offense can be included in the offender score from EHB 1324 (2023) retroactively and gives priority for resentencing of individuals currently incarcerated whose offender score is impacted by the provision of the bill.

Individuals that committed their offense prior to July 23, 2023, would be sentenced under scoring provisions that were in place at the time of their offense (including juvenile offenses in scoring), but would be allowed to file a motion for relief from sentence if juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition was filed. It is unknown how many individuals will file motions.

As this applies to incarcerated individuals, the CFC lacks data necessary to reliably estimate the bed impacts of the bill. However, reductions in offender scores will result in most sentences receiving lower confinement, reducing the use of prison and jail beds. Some individuals may have a reduced score that shifts the presumptive sentence from prison to non-prison.

### **Juvenile Rehabilitation Bed Impacts**

Generally, the scoring rules for adult convictions should not impact juvenile bed needs. However, current statutes require individuals sentenced in adult court for an offense committed before the age of 18 to serve to their confinement at a Juvenile Rehabilitation (JR) facility until age 25, or until release if occurring prior to age 25. As a result, any adult conviction for an offense committed by someone under the age of 18 that included juvenile adjudications in the offender score may reduce the need for JR beds as removing the juvenile adjudications from scoring may result in a lower offender score. However, as less than 1% of all sentences in the adult system are committed by those less than age 18, it is assumed any impacts to JR would be minimal.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5971 SB	<b>Title:</b> Offender score recal.	<b>Agency:</b> 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:**

**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: Kevin Black	Phone: (360) 786-7747	Date: 01/09/2024
Agency Preparation: Jay Treat	Phone: 360-556-6313	Date: 01/12/2024
Agency Approval: Sarah Emmans	Phone: 360-628-1524	Date: 01/12/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 01/18/2024

## 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.*

New section 2 lowers an offender's score which will lessen the amount of time young people are incarcerated.

### 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.*

Fiscal impact is indeterminate.

With the lowering of offender scores, the bill may potentially result in a decrease in Average Daily Population (ADP) and indeterminate savings to DCYF. DCYF does not have data regarding how many individuals will be impacted, therefore, the caseload forecast and per capita adjustments are unknown at this time.

DCYF assumes the impact will result when the ADP caseload changes in the JR residential facilities forecast. The impact would be reflected in the forecasted maintenance level budget step. DCYF will true up our fiscal impact in subsequent budget submittals if the legislation is enacted into 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

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: 5971 SB

Title: Offender score recalc.

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

### Legislation Impacts:

- Cities: Indeterminate expenditure impact resulting from a change in demand for jail beds
- Counties: Indeterminate expenditure impact resulting from prosecutorial costs from participating in resentencing hearings; indeterminate expenditure impact resulting from a change in demand for jail beds
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

## Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: Number of resentencing hearings that will be granted; prosecutor costs for a given hearing; magnitude and direction of any change in demand for jail beds

### Estimated revenue impacts to:

None

### Estimated expenditure impacts to:

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

## Part III: Preparation and Approval

Fiscal Note Analyst: James Vogl	Phone: 360-480-9429	Date: 01/17/2024
Leg. Committee Contact: Kevin Black	Phone: (360) 786-7747	Date: 01/09/2024
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/17/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 01/19/2024

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

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

Section 2 would add a new section to chapter 9.94A RCW, specifying that a person sentenced for an offense committed prior to July 23, 2023, and whose offender score for that offense was increased due to any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition is filed is entitled to a resentencing hearing if the person is currently incarcerated in total confinement with a release date on the sentence of January 1, 2025, or later, and until January 1, 2027, the person:

- Has a release date on the sentence within three years, or the person would be eligible for release on the sentence within three years if they were resentenced to a standard range sentence based on an offender score which does not include juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition is filed; or
- Has served over 15 years of their sentence; or
- Has served at least 50 percent of their sentence.

If the court finds that the person is currently incarcerated in total confinement, has a release date of January 1, 2025, or later, and the previous offender score was increased due to any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition was filed, that person must be resentenced as if any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the petition was filed were not part of the offender score at the time the original sentence was imposed.

Beginning on January 1, 2027, section 2 would apply to all people incarcerated in total confinement with a release date of January 1, 2025, or later, whose previous offender score was increased due to any juvenile adjudications that are not scorable under RCW 9.94A.525 as enacted at the time the resentencing petition was filed.

### **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 result in an indeterminate, but significant increase in local government expenditures as a result of the resentencing hearings the bill would require. The amended sentences resulting from these hearings could have an indeterminate impact on local government expenditures on jail beds.

Section 2 would entitle people meeting certain conditions whose sentences were increased by counting certain prior juvenile convictions to be resentenced as if these prior convictions were not a part of their criminal history score. These resentencing hearings would require the participation of both prosecutors, and in the cases of people who are indigent, public defenders. The Office of Public Defense indicates, however, that per the requirements of RCW 2.70.020 (3), the office would have a role in providing counsel for resentencings under the provisions of the proposed legislation.

Please note that while these resentencing hearings would also create additional court costs, these costs are discussed in the fiscal note prepared by the Administrative Office of the Courts.

According to the Washington Association of Prosecuting Attorneys (WAPA), the attorney time required for each of these hearings can vary widely based on the complexity of a given case, ranging from an hour for a simple hearing, to a week or more for a complex hearing required for a case like murder. In 2023, WAPA estimated that if a similar number of people sought resentencing under section 3 of HB 1324, which contained the same resentencing provisions as the proposed legislation, as were estimated to be eligible for resentencing as a result of the Blake decision, prosecution costs could total \$10 million or more. WAPA indicates that some of those people may have finished their sentences over the past year, however, in which case total prosecution costs could be lower than the previous estimate of \$10 million or more.

It is unknown, however, exactly how many people may motion for and be granted a resentencing hearing under the provisions of section 2 of the proposed legislation, as well as how much attorney time a given hearing may require from

prosecutors, so the magnitude of the resulting increase in county expenditures as a result of additional resentencing hearings is indeterminate.

According to the Washington State Caseload Forecast Council (CFC), demand for jail beds could change as a result of the resentencing that this bill would require. While CFC does not have the data necessary to reliably estimate jail bed impacts resulting from this bill, reduced criminal history scores would result in most sentences having a reduced term of confinement, which could decrease demand for jail beds. Some presumptive sentences, however, may shift from prison to jail, which would increase demand for jail beds.

It is unknown, however, how many presumptive sentences may shift from prison to jail, or what the reductions in confinement time may be because of the sentencing changes this bill would make, so the net change in demand for jail beds, and the resulting expenditure impact on local governments, 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:**

Local government fiscal note for HB 1324, 2023

Local Government Fiscal Note Program Criminal Justice Cost Model, 2024

Washington Association of Prosecuting Attorneys

Washington State Caseload Forecast Council

Washington State Office of Public Defense