

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1999 S HB	<b>Title:</b> 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. Other						
Local Gov. Total						
Local Gov. Courts	No fiscal impact					
Loc School dist-SPI						

## 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.											
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>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	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other			158,466						
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			158,466						

## 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
<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	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

<b>Prepared by:</b> Danya Clevenger, OFM	<b>Phone:</b> (360) 688-6413	<b>Date Published:</b> Final 2/ 6/2024
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# Judicial Impact Fiscal Note

<b>Bill Number:</b> 1999 S HB	<b>Title:</b> Fabricated intimate images	<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:**

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: 01/29/2024
Agency Preparation: Chris Conn	Phone: 360-704-5512	Date: 01/30/2024
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 01/30/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/31/2024

192,883.00

Request # 164-1

## Part II: Narrative Explanation

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

The substitute would not make any changes affecting the fiscal impact to the Administrative Office of the Courts or the courts.

### 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

### 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

192,883.00

Form FN (Rev 1/00)

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1999 S HB	<b>Title:</b> Fabricated intimate images	<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: Corey Patton	Phone: 360-786-7388	Date: 01/29/2024
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/01/2024
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/01/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/02/2024

## 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.*

# **SHB 1999**

## **FABRICATING INTIMATE OR SEXUALLY EXPLICIT IMAGES AND DEPICTIONS**

**101 – Caseload Forecast Council**

**January 30, 2024**

### **SUMMARY**

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

- Section 1 Amends RCW 9.68A.011 by amending the definition for “Visual or Printed Matter” and adding definitions for “fabricated depiction of an identifiable minor” and “digitization”.
- Section 2 Amends RCW 9.68A.055, (Forfeiture by minors), to include any fabricated depiction or depictions.
- Section 3 Amends RCW 9.68A.110 to exclude charged offenses involving fabricated images to the list of specified offenses that requires the state to establish the identity of the alleged victim. Adds language stating in a prosecution for a specified offense involving a fabricated depiction, it is not a defense that the defendant lacked knowledge of whether the depiction had been created or altered by digitization.
- Section 4 Amends RCW 9.68A.170, (Criminal proceedings—Depictions of minors engaged in sexually explicit conduct—Restrictions on access), to include any fabricated depictions.
- Section 5 Amends RCW 9.68A.180, (Criminal proceedings—Depictions of minors engaged in sexually explicit conduct—Sealing, storage, destruction of exhibits), to include any fabricated depictions.
- Section 6 Amends RCW 9.68A.190, (Criminal proceedings—Depictions of minors engaged in sexually explicit conduct—Depictions distributed to defense counsel or expert witnesses prior to June 7, 2012—Distribution of depictions under color of law not a defense), to include any fabricated depictions.
- Section 7 Adds a new section to chapter 9A.86 RCW establishing a new gross misdemeanor for a first offense of “Disclosing Fabricated Intimate Images” and a Class C felony offense for any subsequent offenses.
- Section 8 Amends RCW 9A.68.010 (Disclosing Intimate Images), by including violations of Section 7 in the count for prior convictions.
- Section 9 Amends RCW 9A.86.020 (Intimate images – Forfeiture by minors), to include any fabricated depictions.



Section 10 Amends RCW 7.110.010 (definition section of chapter “Uniform civil remedies for unauthorized disclosure of intimate images act”), by amending the definition of “Depicted Individual” and “Identifiable” and adding definitions for “Child”, “Digitization”, "Fabricated intimate image", "Harm", "Parent", and "Private".

Section 11 Amends RCW 7.110.020 by removing the definitions of “Harm” and “Private”.

Section 12 Adds a new section to chapter 7.110 RCW to state a depicted individual who is identifiable and who suffers harm from an intentional disclosure or threatened disclosure of a fabricated image without consent, has a cause of action.

Section 13 Amends RCW 7.110.030 by removing the definitions of “Child” and “Parent” and including fabricated images. Adds language stating a person is not liable in an action brought under Section 12 if the fabricated image is commentary, criticism, or disclosure protected by the Washington State Constitution or the United States Constitution.

Section 14 Amends RCW 7.110.050 (Remedies), to include any fabricated depictions.

Section 15 Amends RCW 7.110.606 (Statute of limitations), to include Section 12 of this act.

## **EXPENDITURES**

### **Assumptions.**

None.

### **Impact on the Caseload Forecast Council.**

None.

### **Impact Summary.**

This bill:

- Establishes one new Class C felony offense with previous offense(s) and one new gross misdemeanor for first offense; and
- Expands existing sex offenses to include fabricated depictions.

### **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 offense or new convictions because of the expanded definitions of existing offenses may occur or the sentences that might actually be imposed. As such, the Caseload Forecast Council cannot reliably predict bed impacts resulting from the bill.

However:

The newly established gross misdemeanor offenses of “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 unranked Class C felony offense of “Disclosing Fabricated Intimate Images – subsequent offense” would be punishable by a term of confinement of 0 to 12 months in jail. Therefore, any impact would be on jail beds only.

The expanded definitions of including fabricated images impacts many existing sex offenses. These offenses range from misdemeanor to Class B felony offenses that are from unranked to Seriousness Level VII on the Adult Felony Offense Grid. Therefore, any additional convictions resulting from provisions of the bill would result in an increased need for both jail and prison beds.

### **Impacts on DOC Supervision Population.**

The expanded definition impacts 11 existing sex offenses. 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 offenses 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 C felony offense established 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) to 15-36 weeks in a JR facility and the established gross misdemeanor offense would be a Category D with punishment of local sanctions. The expanded definitions of the sex offenses impact both Class C and Class B felony offenses (considered as Category B (Other Offense Equivalent to an Adult Class B Felony) and Category C (Other Offense Equivalent to an Adult Class C Felony)) and punishment would range from Local Sanctions (0-30 days confinement) to 52-65 weeks in a JR facility. Therefore, any impact would be on local detention and JR beds.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1999 S HB	<b>Title:</b> Fabricated intimate images	<b>Agency:</b> 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: 01/29/2024
Agency Preparation: Allison Plant	Phone: 360-596-4080	Date: 01/31/2024
Agency Approval: Mario Buono	Phone: (360) 596-4046	Date: 01/31/2024
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 01/31/2024

## 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 substitute version of this bill modifies the definition of digitization to include the creation or alteration of visual or printed matter by using artificial intelligence, rather than by using artificial intelligence software. It also eliminates the new criminal offenses prohibiting the dealing in, sending or bringing into the state, possession, or intentionally viewing of fabricated depictions of a minor engaged in sexually explicit conduct. It now expands the equivalent criminal offenses involving non-fabricated depictions under current law to also prohibit the dealing in, sending or bringing into the state, possession, or intentional viewing of fabricated depictions.

These changes do not change our assumptions stated in the original version.

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

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

Section 2 amends RCW 9.68A.055 to include any fabricated depiction or depictions.

Section 7 (New) adds a section to 9A.86 to include fabricated depiction, mirroring the language of RCW 9A.68.010 - 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

<b>Bill Number:</b> 1999 S HB	<b>Title:</b> Fabricated intimate images	<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:**

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.*

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- 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: 01/29/2024
Agency Preparation: Saydee Wilson	Phone: 5098221418	Date: 02/02/2024
Agency Approval: Sarah Emmans	Phone: 360-628-1524	Date: 02/02/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/02/2024

## 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.*

Comparison of SHB 1999 to HB 1999:

Eliminates the new criminal offenses prohibiting the dealing in, sending or bringing into the state, possessing, or viewing of fabricated depictions of a minor engaged in sexually explicit conduct, and instead expands the equivalent criminal offenses involving non-fabricated depictions under current law to also prohibit the dealing in, sending or bringing into the state, possessing, or viewing of fabricated depictions.

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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. Work 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

**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> 1999 S HB	<b>Title:</b> Fabricated intimate images	<b>Agency:</b> 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: 01/29/2024
Agency Preparation: Matthew Friesen	Phone: (360) 725-8428	Date: 02/01/2024
Agency Approval: Michael Steenhout	Phone: (360) 789-0480	Date: 02/01/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/02/2024

## 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.*

1999 SHB differs from the original bill in the following ways:

Section 1(3) expands the definition of “Visual or printed matter” to be used in subsequent sections with regards to fabricated depictions.

Section 8 amends RCW 9A.68.010 (Disclosing Intimate Images) by including violations of Section 7 in the count for prior convictions.

Original bill language is below:

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 offense or new convictions because of the expanded definitions of existing offenses may occur or the sentences that might actually be imposed. As such, the Caseload Forecast Council cannot reliably predict bed impacts resulting from the bill.

However:

The expanded definitions of including fabricated images impacts many existing sex offenses. These offenses range from misdemeanor to Class B felony offenses that are from unranked to Seriousness Level VII on the Adult Felony Offense Grid. Therefore, any additional convictions resulting from provisions of the bill would result in an increased need for both jail and prison beds.

Impacts on DOC Supervision Population

The expanded definition impacts 11 existing sex offenses. 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 offenses 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 S HB

Title: Fabricated intimate images

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

### Legislation Impacts:

- Cities: Approximately \$117,984 for local law enforcement training on new criminal offenses; indeterminate law enforcement, prosecution and jail expenses as a result of processing incidents of new, modified criminal offenses
- Counties: Approximately \$40,482 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, modified criminal offenses
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

## Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs: Approximately \$158,466 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 and modified 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		117,984	117,984		
County		40,482	40,482		
<b>TOTAL \$</b>		158,466	158,466		
<b>GRAND TOTAL \$</b>					<b>158,466</b>

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: 02/05/2024
Leg. Committee Contact: Corey Patton	Phone: 360-786-7388	Date: 01/29/2024
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/05/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/06/2024

## **Part IV: Analysis**

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

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

This fiscal note analyzes the local government impact of SHB 1999, comparing it to the impact of HB 1999.

#### **CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:**

The proposed substitute bill would not include the creation of the following new criminal offenses that the original bill would have created:

- Dealing in fabricated depictions of a minor engaged in sexually explicit conduct in the first and second degree
- Minor dealing in fabricated depictions of another minor 13 years of age or older in the first and second degree
- Minor dealing in fabricated depictions of another minor 12 years of age or younger in the first and second degree
- Minor financing or selling fabricated depictions of another minor engaged in sexually explicit conduct
- Sending or bringing into the state fabricated depictions of a minor engaged in sexually explicit conduct in the first and second degree
- Possession of fabricated depictions of a minor engaged in sexually explicit conduct in the first and second degree
- Viewing fabricated depictions of a minor engaged in sexually explicit conduct in the first and second degree

The proposed substitute would also add photographs or other material that constitutes a fabricated depiction of an identifiable minor to the existing definition of visual or printed matter for the purposes of chapter 9.68A RCW.

#### **SUMMARY OF CURRENT BILL:**

Section 1 would amend RCW 9.68A.011, adding photographs or other material that constitutes a fabricated depiction of an identifiable minor to the existing definition of visual or printed matter for the purposes of chapter 9.68A RCW.

Section 7 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 8 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 7 of the proposed legislation.

### **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.*

#### **CHANGE IN EXPENDITURE IMPACT BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:**

By eliminating a number of new offenses that the original bill would have created, the substitute bill would require less law enforcement training time, approximately 15 minutes compared with one hour for the original bill.

#### **EXPENDITURE IMPACT OF CURRENT BILL:**

The proposed legislation would require \$158,466 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 15 minutes of training would be required per law enforcement officer. This training would require a one-time cost of \$117,984 for cities and \$40,482 for counties, for a total one-time cost to local governments of \$158,466.

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 15 minutes of training, the cost to local governments would be:

Cities:

6,647 officers X 0.25 hour X \$71 average hourly salary plus benefits and overhead = \$117,984

Counties:

2,249 officers X 0.25 hour X \$72 average hourly salary plus benefits and overhead = \$40,482

Total:

\$117,984 + \$40,482 = \$158,466

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

According to the Washington State Caseload Forecast Council's (CFC) fiscal note for this bill, the creation of the new criminal offense of disclosing fabricated intimate images, punishable by between zero and 364 days in jail, would impact demand for jail beds. Additionally, CFC indicates that expanding the definition of visual or printed matter in section 1 could also lead to additional incidents of a number of sex offenses contained in chapter 9.68A RCW, and an associated increase in demand for jail beds. 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.

CFC also indicates that the new offense that section 7 would create and the expanded definition in section 1 could increase demand for local juvenile detention beds. It is assumed that the new offense in section 7 would be punishable by between zero and 30 days in local juvenile detention, and between 15 and 36 weeks in juvenile rehabilitation, and the offenses impacted by the expanded definition in section 1 would be punishable by between zero and 30 days in local juvenile detention, and between 52 and 65 weeks in juvenile rehabilitation. It is unknown what the magnitude of any resulting increase in demand for juvenile detention beds might be, however, so the associated local government expenditure impact is indeterminate. The Local Government Fiscal Note Program does not have detailed information on the costs of juvenile detention, however the average daily rate for juvenile detention beds is generally higher than the same figure for a jail bed.

Local law enforcement, prosecutors, and in some cases public defenders, would incur costs as a result of processing incidents of the new criminal offense that the proposed legislation would create, and additional incidents of the offenses that would be impacted by the expanded definition in section 1. 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.

### **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