

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 2065 S HB	<b>Title:</b> Offender score recal.
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## Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	32,000	0	0	58,000	0	0	0
<b>Total \$</b>	<b>0</b>	<b>0</b>	<b>32,000</b>	<b>0</b>	<b>0</b>	<b>58,000</b>	<b>0</b>	<b>0</b>	<b>0</b>

## 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	1,330,400	1,330,400	1,330,400	3.0	6,543,334	6,543,334	6,543,334	3.0	6,543,334	6,543,334	6,543,334
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	.2	0	0	32,000	.3	0	0	58,000	.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	.0	26,000	26,000	26,000	.0	0	0	0	.0	0	0	0
Department of Corrections	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
<b>Total \$</b>	<b>0.7</b>	<b>1,516,400</b>	<b>1,516,400</b>	<b>1,548,400</b>	<b>4.3</b>	<b>6,853,334</b>	<b>6,853,334</b>	<b>6,911,334</b>	<b>4.0</b>	<b>6,853,334</b>	<b>6,853,334</b>	<b>6,853,334</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 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	.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	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> Final 2/13/2024
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# Judicial Impact Fiscal Note

<b>Bill Number:</b> 2065 S HB	<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: Michelle Rusk	Phone: 360-786-7153	Date: 01/31/2024
Agency Preparation: Chris Conn	Phone: 360-704-5512	Date: 02/13/2024
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 02/13/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/13/2024

193,735.00

Request # 180-1

## 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

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

193,735.00

Form FN (Rev 1/00)

None

193,735.00

Form FN (Rev 1/00)

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Request # 180-1

Bill # 2065 S HB

# Individual State Agency Fiscal Note

Revised

<b>Bill Number:</b> 2065 S HB	<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	1,330,400	1,330,400	6,543,334	6,543,334
<b>Total \$</b>	0	1,330,400	1,330,400	6,543,334	6,543,334

### 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: Michelle Rusk	Phone: 360-786-7153	Date: 01/31/2024
Agency Preparation: Katrin Johnson	Phone: 360-586-3164 1	Date: 02/11/2024
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 02/11/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/12/2024

## 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 following provisions of Substitute House Bill 2065 are anticipated to impact the Office of Public Defense.

Section 2 adds a new section to chapter 9.94A RCW.

Section 2(1) permits people sentenced for offenses committed prior to July 23, 2003 whose offender score was increased due to juvenile sentencing points, to file petitions for resentencing if they meet certain criteria before January 1, 2027.

Section 2(2) identifies the bases on which courts can grant or deny motions for resentencing. Petitioners have a rebuttable presumption of resentencing if they meet the factors of sub-section (1). However, courts may deny resentencing based on a petitioner's disciplinary record, a petitioner's record of rehabilitation, a petitioner's antisocial behavior, a petitioner's likelihood of reoffending, and the impact of resentencing on the victim. If the petitioner's resentencing motion is granted, release may occur no sooner than six months following the hearing.

Section 2(3) provides that within six months of a petitioner's release, the Department of Corrections must prepare an individualized reentry plan.

Section 2(4) - (5) requires the Department of Corrections to provide victim services and establish a flexible fund to support victims impacted by this Act.

Section 2(6) provides that beginning January 1, 2027, this section applies to all persons meeting the requirements of subsection (2).

Section 2(7) requires that any person sentenced on or after July 1, 2024, for an offense committed prior to July 23, 2023, shall have their offender score calculated based on RCW 9.94A.525.

Section 2(8) applies the section retroactively, regardless of the date of the offense or conviction.

Section 3 provides an effective date of July 1, 2024.

### 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 the Office of Public Defense (OPD) will provide public defense assistance statewide under SHB 2065 because of the following language in RCW 2.70.020(3): "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 appeal court creates the ability to challenge a conviction or sentence."

Compared to the original bill, Substitute House Bill 2065 expands the issues that will be litigated at resentencing hearings. Issues subject to litigation include proof of rehabilitation, likelihood of recidivism, conduct and behavior while incarcerated, and expected impact on the victim. It is assumed that defense litigation of these topics will require more contract defense attorney time as well as the use of mitigation experts, investigators, and subject matter experts.

It is assumed that approximately 1,200 individuals incarcerated at the Washington State Department of Corrections would be eligible for resentencing under SHB 2065. This figure is based on data analysis conducted by the ACLU in the 2023 Legislative Session for HB 1324 and SB 5457.

Additionally, it is assumed that OPD would utilize its current staffing infrastructure in place for State v. Blake resentencing

operations to carry out agency functions under 2SHB 2065. 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 SHB 2065.

#### A. Salaries and Wages:

OPD requires no additional 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 incarcerated communities to ensure awareness of available services and manage expectations. OPD will require new funding to support one-half of its current Blake team to continue to carry out programmatic functions for SHB 2065 in FY 2026 and subsequent years.

OPD agency staffing requirements include:

- 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 defense representation based on an individual's projected new offender score and release date. Cost: \$64,338
  - 0.5 FTE Paralegal to support the work of the Managing (Triage) Attorney. Cost: \$41,087
  - 0.5 FTE Managing Attorney to recruit, contract with, train, and monitor attorney, mitigation expert, and investigator contractors to represent the eligible individuals for resentencing under 2SHB 2065. Cost: \$64,338
  - 0.5 FTE Program Assistant to support the work of the Managing Attorney. Cost: \$28,957
  - 0.5 FTE Data Analyst to collect, track, and analyze data to track case outcomes and work completed. Cost: \$50,188
  - 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: \$39,748
- The anticipated total for OPD salaries is \$224,318 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 \$49,349 per year, and is identified at Expenditure Object B (Employee Benefits).

#### N. Client Services

It is anticipated that OPD will enter into contracts for legal representation of eligible individuals under SHB 2065. Contractors will include attorneys, mitigation experts, and investigators. OPD will also pay for expert witness costs.

#### Contract Attorneys:

Contracted attorneys may be individual attorneys, multi-attorney firms, non-profit public defense agencies, and/or county public defense agencies. Contract attorneys may be assigned to multi-county regions of the state to ensure effective, trained, representation for individuals regardless of their sentencing county. It is assumed that a contracted attorney will spend, on average, 40 hours per resentencing case. It is further anticipated that OPD will pay an average of \$150/hour for contracted attorneys.

It is expected that OPD will provide representation to the following number of individuals per year:

FY25 (start up year): 120 individuals x 40 attorney hours x \$150/hr = \$720,000

FY26 and beyond: 270 individuals x 40 attorney hours x \$150/hr = \$1,620,000

#### Contract Mitigation Experts and Investigators:

Contracted mitigation experts and investigators may be solo practitioners or employees in organizations. 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 assumed that each case will require an average of 40 hours of combined mitigation expert and investigator time. It is anticipated that mitigation experts and investigators will be contracted at \$100 per hour. It is expected that OPD will provide mitigation/investigation services to the following number of individuals per year:

FY25 (start-up year): 120 individuals x 40 mitigation expert/investigation hours x \$100/hr = \$480,000

FY26 and beyond: 270 individuals x 40 mitigation expert/investigation hours x \$100/hr = \$1,080,000

**Expert Witnesses:**

It is anticipated that approximately 25% of the cases litigated under SHB 2065 will require the assistance of expert witnesses. Experts will provide, for example, evaluation, consultation, and in-court testimony related to forensic psychology and other technical areas outside the scope of OPD contractors' expertise. It is anticipated that the average expert cost per case where the service is needed, will be \$4,000.

FY25 (start-up year): 120 individuals x 25% x \$4000 = \$120,000

FY26 and beyond: 270 individuals x 25% x \$4000 = \$270,000

**Total client service costs:**

FY25 (start-up year): \$720,000 (attorneys) + \$480,000 (mitigation experts and investigators) + \$120,000 (expert witnesses) = \$1,320,000, and is identified at Expenditure Object N (Grants, Benefits, & Client Services).

FY26 and beyond: \$1,620,000 (attorneys) + \$1,080,000 (mitigation experts and investigators) + \$270,000 (expert witnesses) = \$2,970,000, and is identified at Expenditure Object N (Grants, Benefits, & Client Services).

**G. Travel**

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

**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 travel costs for OPD employees in FY25 will average \$600 per quarter, or \$2,400 over the year. It is anticipated that travel costs for OPD employees in FY26 and beyond will average \$1,000 per quarter, or \$4,000 per year.

**OPD Contractors:** It is anticipated that OPD will enter into contracts with attorneys, mitigation experts, and investigators who will provide representation under 2SHB 2065 in multi-county regions. By contracting with fewer attorneys, mitigation experts and investigators who represent larger regions, OPD can better streamline and centralize its recruitment, training, and contracting efforts. Contractors will therefore need reimbursement for travel expenses (pursuant to OFM SAAM guidelines) for activities such as witness interviews, court hearings, meeting clients in DOC facilities, and other case-related purposes. It is anticipated that travel costs for OPD contractors in FY25 will average \$2,000 per quarter, or \$8,000 over the full year. It is anticipated that travel costs for OPD contractors in FY26 and beyond will be approximately \$6,000 per quarter, or \$24,000 per year.

It is anticipated that the combined travel costs for OPD staff and contractors will be \$10,400 in FY25, and \$28,000 per year in FY26 and beyond, 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	1,330,400	1,330,400	6,543,334	6,543,334
<b>Total \$</b>			0	1,330,400	1,330,400	6,543,334	6,543,334

**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				448,636	448,636
B-Employee Benefits				98,698	98,698
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel		10,400	10,400	56,000	56,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services		1,320,000	1,320,000	5,940,000	5,940,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	1,330,400	1,330,400	6,543,334	6,543,334

**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	79,497				0.5	0.5
Data Analyst	100,377				0.5	0.5
Managing Attorney	128,676				1.0	1.0
Paralegal	82,175				0.5	0.5
Program Assistant	57,914				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> 2065 S HB	<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: Michelle Rusk	Phone: 360-786-7153	Date: 01/31/2024
Agency Preparation: Kathy Cody	Phone: (360) 480-7237	Date: 02/06/2024
Agency Approval: Jamie Langford	Phone: (360) 870-7766	Date: 02/06/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 02/06/2024

## 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.*

Substitute HB 2065 expands Section 2 and provides an effective date of July 1, 2024. Changes to this bill do not change the Office of Corrections Ombuds previous fiscal note assumptions.

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> 2065 S HB	<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:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Revolving Account-State 405-1		32,000	32,000	58,000	
<b>Total \$</b>		32,000	32,000	58,000	

### Estimated Operating Expenditures from:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.4	0.2	0.3	0.0
<b>Account</b>					
Legal Services Revolving Account-State 405-1	0	32,000	32,000	58,000	0
<b>Total \$</b>	0	32,000	32,000	58,000	0

### 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: Michelle Rusk	Phone: 360-786-7153	Date: 01/31/2024
Agency Preparation: Cassandra Jones	Phone: 360-709-6028	Date: 02/05/2024
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 02/05/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 02/05/2024

## 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. Allows a court to deny a motion for resentencing under certain conditions. Requires the Department of Corrections (DOC) to prepare individualized reentry plans and the resources necessary for an individual to complete a plan. Requires DOC to provide victim advocate support in certain instances. Requires DOC to establish a flexible fund to support victims of gender-based violence committed by petitioners under the act. Applies the section to all qualified individuals on January 1, 2027. Applies the act retroactively.

Section 3 - New section. Provides an effective date of July 1, 2024.

### 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.*

Cash receipts are assumed to equal the Legal Services Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is the Department of Corrections (DOC). The Attorney General's Office (AGO) will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO budget.

#### AGO AGENCY ASSUMPTIONS:

DOC will be billed for non-King County rates:

FY 2025: \$32,000 for 0.2 Assistant Attorney General FTE (AAG) and 0.1 Paralegal 1 FTE (PL1)

FY 2026 and FY 2027: \$29,000 for 0.1 AAG and 0.1 PL1

### II. C - Expenditures

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

Attorney General's Office (AGO) Agency Assumptions:

Legal services associated with the enactment of this bill will begin on July 1, 2024.

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

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

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

0.5 Paralegal 1 FTE (PL1) and 0.4 MA.

1. Assumptions for the AGO Corrections Division (COR) Legal Services for the Department of Corrections (DOC):

The AGO will bill DOC for legal services based on the enactment of this bill. When the provisions in this bill take effect, it will drive a need for legal advice and representation in post-sentence review petitions filed pursuant to RCW 9.94A.585(7). Assumptions surrounding legal advice and number of petitions is roughly estimated to be 120 hours for each of the first three fiscal years after the bill’s effective date. The bill would impose new requirements on DOC with respect to victim services. DOC will likely require legal assistance during any implementation phase relating to these requirements. COR estimates this advice work will be approximately 40 hours for the first fiscal year and 20 hours for the second and third fiscal years following the bill’s effective date. The volume of potential resentencing hearings DOC will likely be required to facilitate, virtually or otherwise, will likely require COR legal services and involvement at times to assist in coordination with courts and parties for resentencing proceedings. COR assumes legal work is estimated to be approximately 40 hours per year for each of the first three fiscal years following the bill’s effective date.

During FY 2025 and FY 2026, an AAG will be required to provide legal advice and representation concerning sentencing matters and post sentence review petitions for individuals re-sentenced under the bill. Also, legal advice will be required concerning implementation and compliance with requirements relating to victims. During FY 2027, an AAG will be required to provide legal advice and representation concerning sentencing matters and post sentence review petitions for individuals re-sentenced under this bill. Also, legal advice will be required concerning implementation and compliance with requirements relating to victims. Legal advice and representation will be required with respect to DOC facilitation of resentencing hearings.

COR: Total non-King County workload impact:  
 FY 2025: \$32,000 for 0.2 AAG and 0.1 PL1  
 FY 2026: \$29,000 for 0.1 AAG and 0.1 PL1  
 FY 2027: \$29,000 for 0.1 AAG and 0.1 PL1

2. The AGO Criminal Justice Division (CRJ) has reviewed this bill and determined it will not increase or decrease the division’s workload. CRJ prosecutes criminal cases at the request of the county prosecutors or the Governor. This bill would require resentencing of some offenders who are presently serving a criminal sentence that was imposed prior to July 1, 2023, if a juvenile conviction was included in the defendant’s offender score. This bill is likely to have significant fiscal impact on the county prosecutors’ office. However, new legal services for CRJ as a result of this bill are nominal. Therefore, no costs are included in this request.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services	State	0	32,000	32,000	58,000	0
	Revolving Account						
<b>Total \$</b>			0	32,000	32,000	58,000	0

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.4	0.2	0.3	
A-Salaries and Wages		22,000	22,000	40,000	
B-Employee Benefits		7,000	7,000	12,000	
E-Goods and Other Services		3,000	3,000	6,000	
<b>Total \$</b>	0	32,000	32,000	58,000	0

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Assistant Attorney General	129,100		0.2	0.1	0.1	
Management Analyst 5	95,184		0.1	0.1	0.1	
Paralegal 1	69,072		0.1	0.1	0.1	
<b>Total FTEs</b>			0.4	0.2	0.3	0.0

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

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Corrections Division (COR)		32,000	32,000	58,000	
<b>Total \$</b>		32,000	32,000	58,000	

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2065 S HB	<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: Michelle Rusk	Phone: 360-786-7153	Date: 01/31/2024
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/05/2024
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/05/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/05/2024

## 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 2065**

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

**101 – Caseload Forecast Council  
January 31, 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 2 Additionally requires the Department of Corrections (DOC) to prepare and make available an individual reentry plan under chapter 72.09 RCW and provide resources for the plan to anyone resentenced under this section within six months of their expected release date.

Section 2 Additionally requires DOC to provide victim advocate support to the victim, if an individual resentenced under this section has at any time been convicted of a sex offense or a domestic violence offense committed against an intimate partner.

Section 2 Additionally requires DOC to establish a flexible fund to support victims of gender-based violence committed by petitioners under this act.

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

Section 2 Additionally states that any person sentenced on or after July 1, 2024, for an offense committed prior to July 23, 2023, shall have their offender score calculated based on RCW 9.94A.525 as enacted as of July 1, 2024. States the act applies retroactively to persons incarcerated on the effective date of the section, regardless of the date of offense or conviction.

Section 3 States the act takes effect July 1, 2024.

## **EXPENDITURES**

### **Assumptions.**

None.

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

None.

### **Impact Summary**

This bill:

- Reduces offender scores for some individuals.

### **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.

The bill requires scoring rules in effect as of July 1, 2024, to be applied, regardless of the date of the offense or conviction.

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> 2065 S HB	<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: Michelle Rusk	Phone: 360-786-7153	Date: 01/31/2024
Agency Preparation: Jay Treat	Phone: 360-556-6313	Date: 02/03/2024
Agency Approval: Sarah Emmans	Phone: 360-628-1524	Date: 02/03/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/05/2024

## 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 2065 HB to 2065 SHB:

New Section 2 is amended as follows:

Establish a rebuttable presumption that a petitioner is entitled to resentencing, provided that a court may deny a motion for resentencing based on specified factors.

Provides that the earliest allowable release date for an individual resentenced is no sooner than six months after the date of the individual's resentencing hearing.

Requires the DOC to prepare an individualized reentry plan when an individual resentenced under the act is within six months of their expected release date.

Requires the DOC to provide victim advocate support to victims of any sex offenses or qualifying domestic violence offenses that a person seeking resentencing has been convicted of.

Requires the DOC to establish a flexible fund for specified purposes to support victims of gender-based violence committed by a petitioner under this act.

Applies the act retroactively to persons incarcerated on the resentencing effective date, regardless of the person's offense or conviction date.

Clarifies that any person sentenced on or after July 1, 2024, for an offense committed before July 23, 2023, must have their offender score calculated based on state law as of July 1, 2024.

New Section 3 adds an effective date of July 1, 2024.

These changes do not change the indeterminate impact to The Department of Children, Youth and Families (DCYF) from the original bill.

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2065 HB

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 Juvenile Rehabilitation 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

### 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> 2065 S HB	<b>Title:</b> Offender score recal.	<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:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
<b>Account</b>					
General Fund-State 001-1	0	26,000	26,000	0	0
<b>Total \$</b>	0	26,000	26,000	0	0

In addition to the estimates above, there are additional indeterminate costs 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: Michelle Rusk	Phone: 360-786-7153	Date: 01/31/2024
Agency Preparation: Apuroop Dasari	Phone: 3607258428	Date: 02/13/2024
Agency Approval: Michael Steenhout	Phone: (360) 789-0480	Date: 02/13/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/13/2024

## 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.*

2065 S HB differs from the original bill in the following ways:

Section 2(2)(a) adds a new subsection to RCW 9.94A stating the court may deny a motion for resentencing only if:

- The petitioner has either a significant disciplinary record or an insignificant record of rehabilitation while incarcerated; or
- The petitioner has engaged in pervasive and persistent antisocial behavior while incarcerated; or
- The court determines by a preponderance of the evidence that it is more likely than not that the person will commit new criminal law violations if resentenced; or
- The court determines that resentencing would cause an extraordinary negative impact on the victim or the victim's surviving family of the crime for which the petitioner is presently incarcerated.

Section 2(3) adds a new subsection additionally requiring the Department of Corrections (DOC) to prepare and make available an individual reentry plan under chapter 72.09 RCW and provide resources for the plan to anyone resentenced under this section within six months of their expected release date.

Section 2(4) adds a new subsection requiring DOC to provide victim advocate support to the victim, if an individual resentenced under this section has at any time been convicted of a sex offense or a domestic violence offense committed against an intimate partner.

Section 2(5) adds a new subsection requiring DOC to establish a flexible fund to support victims of gender-based violence committed by petitioners under this act.

Section 2(6) adds a new subsection which states this section applies to individuals meeting the requirements of subsection (2) of section 2 beginning January 1, 2027.

Section 2(7) adds a new subsection which states that any person sentenced on or after July 1, 2024, for an offense committed prior to July 23, 2023, shall have their offender score calculated based on RCW 9.94A.525 as enacted as of July 1, 2024.

Section 2(8) adds a new subsection which states the act applies retroactively to persons incarcerated on the effective date of this section, regardless of the date of offense or conviction.

Section 3 adds a new section which states the act takes effect July 1, 2024.

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

The following impacts from the original bill remain unchanged in the substitute:

HB 2065 expands on recalculating sentencing ranges for currently incarcerated Individuals whose offender score was increased by juvenile convictions no longer scorable under current law and allowing them to apply for resentencing without scoring those juvenile convictions; adding a new section to chapter 9.94A RCW. Additionally, the sentencing court set an expedited date for resentencing for a person that 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.

### 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.

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

This bill expands who is currently available to petition for resentencing meeting the requirements of this bill. The DOC assumes this bill would likely result in an increase in the number of individuals to petition for a resentencing hearing, although the impact cannot be reliably estimated. The DOC assumes an indeterminate prison caseload reduction from individuals possibly releasing early pursuant to this bill.

For illustrative purposes, the potential number of individuals eligible to petition for resentencing whose offender score was increased by juvenile convictions is currently 6,335 individuals. We assume all the individuals eligible to petition would have a victim that would be impacted and require DOC to provide victim advocate support to them.

The increased workload from this bill would be significant and require new staffing resources. This increased workload would include building individualized reentry plan as outlined in Section 2(3), victim advocate support for those victims of domestic violence and sex crimes as outlined in Section 2(4), and establishing a flexible fund as outlined in section 2(5). For any of the previous items to be set in place, DOC would be required to collect and send a large amount of records to the Office of the Courts as outlined in Section 2(2)(a).

The DOC will “true up” our fiscal impact in subsequent budget submittals should the legislation be enacted into session law

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 80 hours = \$14,800  
 IT Quality Assurance| \$185 per hour x 40 hours = \$7,400  
 IT Business Analyst| \$185 per hour x 20 hours = \$3,700  
 Total One-Time Costs in FY2025 = \$26,000 (Rounded to nearest thousand)

**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	26,000	26,000	0	0
<b>Total \$</b>			0	26,000	26,000	0	0

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts		26,000	26,000		
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	26,000	26,000	0	0

In addition to the estimates above, there are additional indeterminate costs 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)**

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administration & Support Svcs (100)		26,000	26,000		
<b>Total \$</b>		26,000	26,000		

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 2065 S HB

Title: Offender score recal.

## 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: 02/07/2024
Leg. Committee Contact: Michelle Rusk	Phone: 360-786-7153	Date: 01/31/2024
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/07/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/08/2024

## **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 impact of SHB 2065, comparing it to the impact of HB 2065.

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

The proposed substitute would add a rebuttable presumption that petitioners under section 2 would be entitled to be resentenced, and would specify that courts would only be able to deny a motion for resentencing under section 2 under certain specified circumstances. The substitute would also specify that no person resentenced under section 2 would be released from confinement sooner than six months after their resentencing hearing. Finally, the substitute would specify that anyone sentenced on or after July 1, 2024 for an offense committed prior to July 23, 2023 would be required to have their offender score calculated based on RCW 9.94A.525 as enacted on July 1, 2024, and that section 2 would apply retroactively to people incarcerated on the effective date of the bill, July 1, 2024.

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

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 have a resentencing hearing scheduled.

At the hearing, there would be a rebuttable presumption that the petitioner is entitled to be resentenced, and the court would only be able to deny a motion for resentencing under section 2 under certain specified circumstances. If the court grants a petitioner's motion for resentencing, they would be required to 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. No person resentenced under section 2 would be allowed to be released from confinement sooner than six months after their resentencing hearing.

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.

Anyone sentenced on or after July 1, 2024 for an offense committed prior to July 23, 2023 would be required to have their offender score calculated based on RCW 9.94A.525 as enacted on July 1, 2024, and section 2 would apply retroactively to people incarcerated on the effective date of the bill.

Section 3 would specify that the proposed legislation would take effect July 1, 2024.

### **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 adding circumstances under which a court could deny a person's motion for resentencing under section 2 of the proposed legislation, the substitute bill could result in fewer people being resentenced without counting certain prior juvenile convictions compared to the original bill. Under the provisions of the original bill, anyone meeting the requirements of subsections 2 (1) and (2) would have been required to be resentenced without counting certain prior juvenile convictions. A change in the number of people whose sentences are modified as a result of not counting certain prior juvenile convictions could affect the jail expenditure impacts discussed in more detail below.

It is unknown, however, how many people who would have been resentenced under the provisions of the original bill may have their resentencing motions denied for one of the conditions listed in the substitute bill, or what the resulting impact on demand for jail beds might be. Accordingly, the resulting change in the associated local government expenditure impact is indeterminate.

## EXPENDITURE IMPACT OF CURRENT BILL:

The proposed legislation would result in an indeterminate, but potentially substantial 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 (OPD) indicates, however, that per the requirements of RCW 2.70.020 (3), the office would provide counsel for people motioning for resentencing 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 a 2021 analysis related to resentencing hearings resulting from the Blake decision, WAPA estimated the range of total prosecutorial costs for resentencing hearings of different complexities. These costs ranged between \$375 and \$645 for simple hearings, and between \$630 and \$1,050 for one-day hearings, with more complex hearings requiring additional costs. The most complex one-week hearings were estimated to cost between \$4,950 and \$8,610. The 2021 analysis used the estimated costs for simple hearings and one-day hearings to estimate a range of total prosecutorial costs for Blake-related resentencing hearings.

OPD estimates that, based on data collected from various agencies, approximately 1,200 people would be eligible to motion for resentencing under the section 2 of the proposed legislation, and approximately 10% of those cases would be more complex, requiring expert services.

The following is an illustrative estimate of the prosecutorial costs for hearings for people who could be eligible to motion for resentencing based on the OPD analysis above and the 2021 WAPA resentencing hearing cost analysis:

### HEARING COSTS:

Average cost for a simple hearing:  $(\$375 + \$645)/2 = \$510$

Average cost for a one-day hearing:  $(\$630 + \$1050)/2 = \$840$

Average cost for a complex hearing:  $(\$4,950 + \$8,610)/2 = \$6,780$

**TOTAL COSTS:**

$(0.9 \times 1,200 \text{ people}) \times \$510 \text{ average cost for a simple hearing} + (0.1 \times 1,200 \text{ people}) \times \$6,780 \text{ average cost for a complex hearing} = \$1,364,400 \text{ total cost assuming } 90\% \text{ simple hearings, } 10\% \text{ complex hearings}$

$(0.9 \times 1,200 \text{ people}) \times \$840 \text{ average cost for a one-day hearing} + (0.1 \times 1,200 \text{ people}) \times \$6,780 \text{ average cost for a complex hearing} = \$1,720,800 \text{ total cost assuming } 90\% \text{ one-day hearings, } 10\% \text{ complex hearings}$

Midpoint of total cost range =  $(\$1,364,400 + \$1,720,800)/2 = \$1,542,600$

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. Fewer people motioning for resentencing would decrease prosecutorial costs from resentencing hearings, while more complex hearings would increase such costs. Accordingly, 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