

Multiple Agency Fiscal Note Summary

Bill Number: 2001 2S HB	Title: Sentence modification
--------------------------------	-------------------------------------

Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other	Fiscal note not available					
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	.0	595,000	595,000	595,000	.0	0	0	0	.0	0	0	0
Administrative Office of the Courts	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Office of Public Defense	Fiscal note not available											
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Commerce	.2	1,692,610	1,692,610	1,692,610	.4	3,385,220	3,385,220	3,385,220	.4	3,385,220	3,385,220	3,385,220
Department of Commerce	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Department of Corrections	.0	37,000	37,000	37,000	.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.											
Total \$	0.2	2,324,610	2,324,610	2,324,610	0.4	3,385,220	3,385,220	3,385,220	0.4	3,385,220	3,385,220	3,385,220

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts			2,773,000						
Local Gov. Courts	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Loc School dist-SPI									
Local Gov. Other	Fiscal note not available								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of Public Defense	Fiscal note not available								
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Department of Commerce	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Loc School dist-SPI									
Local Gov. Other	Fiscal note not available								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Danya Clevenger, OFM	Phone: (360) 688-6413	Date Published: Preliminary 2/15/2024
--	---------------------------------	---

Judicial Impact Fiscal Note

Bill Number: 2001 2S HB	Title: Sentence modification	Agency: 055-Administrative Office of the Courts
--------------------------------	-------------------------------------	--

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

STATE	FY 2024	FY 2025	2023-25	2025-27	2027-29
State FTE Staff Years					
Account					
General Fund-State 001-1		595,000	595,000		
State Subtotal \$		595,000	595,000		
COUNTY	FY 2024	FY 2025	2023-25	2025-27	2027-29
County FTE Staff Years					
Account					
Local - Counties		2,773,000	2,773,000		
Counties Subtotal \$		2,773,000	2,773,000		
CITY	FY 2024	FY 2025	2023-25	2025-27	2027-29
City FTE Staff Years					
Account					
Local - Cities					
Cities Subtotal \$					

In addition to the estimates above, there are additional indeterminate costs 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: Yvonne Walker	Phone: 360-786-7841	Date: 02/09/2024
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	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

194,400.00

Request # 205-1

Part II: Narrative Explanation

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

The bill would amend and add to Chapter 9.94A RCW (Sentencing Reform Act of 1981) allowing individuals who have a sentence of partial or total confinement at the time they committed a crime were 17 or 18 or have consent of the prosecuting attorney to petition the court for a modification of sentence.

Section 3 outlines the eligibility and contents of the petition to modify a sentence. The court may grant modification if there is a finding that the original sentence no longer advances the interest of justice. A list of factors that the court may consider in determining a modification should be granted is provided.

II. B - Cash Receipts Impact

None

II. C - Expenditures

IMPACT TO ADMINISTRATIVE OFFICE OF THE COURTS

This bill would have no fiscal impact to the Administrative Office of the Courts.

INDETERMINATE IMPACT TO THE COURTS, UPDATED WITH CASE INFORMATION FROM THE SUPERIOR COURT JUDGES' ASSOCIATION AND THE DEPARTMENT OF CORRECTIONS.

The second substitute bill would result in an indeterminate, but likely significant, increase in superior court workload. The bill mandates any person, with the exception of those convicted of Aggravated Murder I, or a persistent offender with a term of Life Without Parole, under a term of partial or total confinement by the Department of Corrections (DOC) for a felony conviction may petition the sentencing court for a modification of sentence if the original sentence no long serves the interests of justice and the person meets any of the following criteria:

- Served at least 10 years for an offense committed at age 18 or older;
- Served at least 7 years for an offense committed at age 17 or younger; or
- Has the prosecuting attorney's consent.

The bill also excludes a defendant waiving their right to petition for resentencing (e.g., in exchange for a lesser sentence as part of a plea) and instead directs that the court "shall" grant a hearing to consider the petition and schedule the hearing within 120 days "upon a substantial showing" that the petitioner meets one of the following criteria:

- Indicated substantial rehabilitation
- Demonstrated a minimal risk of reoffence, which may include medical frailty
- Some significant material fact was not known at the time of conviction.

Courts will be unable to meet the 120-day hearing requirement of this bill. For comparison, in the 34 months since the Blake decision, 2,253 Blake hearings have been heard remotely, from courts statewide, at DOC facilities. Conducting a similar number of hearings within 120 days from filing, as required by the substitute bill, is not feasible, given court capacity and current shortages of defense attorneys and prosecuting attorneys.

DOC provided the number of incarcerated individuals in DOC's jurisdiction who are serving a felony sentence that falls under the criteria in the bill.

- 2,237 incarcerated individuals who are serving a sentence for a felony committed at 18 years of age or older and have served at least 10 years of their sentence.
- 122 incarcerated individuals who are serving a sentence for a felony committed at 17 years of age or younger and have served at least 7 years of their sentence.

NOTES: Data includes individuals under the department's jurisdiction serving the incarceration portion of their sentence, excluding

194,400.00

Form FN (Rev 1/00)

2

Request # 205-1

Bill # 2001 2S HB

escapes.

- 1) Individuals who are out to court or out for medical treatment are included in this data.
- 2) Data reflects prison population as of 01/31/2024 in OMNI.
- 3) This data excludes Aggravated Murder 1.
- 4) This data also excludes any individual that possessed a second or third strike and has a confinement type of Life Without the Possibility of Parole (LWOP.)

As the DOC data shows, the number of individuals, currently incarcerated, who could file these petitions, is estimated to be up to 2,359 (2,237 + 122). It is unknown how many of these cases would be likely to seek resentencing. But these numbers show only part of the potential workload on the courts. As the substitute is written, unsuccessful petitioners may file a new petition three years after the date the previous petition was denied, effectively extending indefinitely the number of times a person could refile and demand a hearing while incarcerated.

Given that the majority of this workload will involve individuals convicted of a Class A felony with a minimum of ten-year prison terms, many of these cases will be complex. We estimate that up to 80% of these hearings will be contested, taking an average of 120 minutes of hearing time. Our total estimated cost to courts and local government for hearing these cases, not including new subsequent petitions from individuals, is:

State: \$595,000 (superior court judges' 50% salary and 100% benefits)
 County: \$2,773,000

All costs are shown in FY 2025. However, the timing is indeterminate. Dates of filing are unknown and, as was explained above, meeting a 120-day hearing requirement is not feasible.

Part III: Expenditure Detail

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

<i>State</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Wages		371,000	371,000		
Employee Benefits		224,000	224,000		
Professional Service Contracts					
Goods and Other Services					
Travel					
Capital Outlays					
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements					
Total \$		595,000	595,000		

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

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

<i>County</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Benefits					
Capital					
Other		2,773,000	2,773,000		
Total \$		2,773,000	2,773,000		

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

<i>City</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Benefits					
Capital					
Other					
Total \$					

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

None

Individual State Agency Fiscal Note

Bill Number: 2001 2S HB	Title: Sentence modification	Agency: 101-Caseload Forecast Council
--------------------------------	-------------------------------------	--

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: Yvonne Walker	Phone: 360-786-7841	Date: 02/09/2024
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/13/2024
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/13/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/14/2024

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.

2SHB 2001

PROVIDING JUDICIAL DISCRETION TO MODIFY SENTENCES IN THE INTEREST OF JUSTICE

101 – Caseload Forecast Council

February 9, 2024

SUMMARY

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

Section 1 States the act shall be known as the judicial discretion act.

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

Section 3 Adds a new section to chapter 9.94A RCW by establishing a process for any person under a term of partial or total confinement or subject to supervision by the Department for a felony conviction to petition the sentencing court if the original sentence no longer serves the interest of justice and the person meets the following criteria:

- If serving a sentence for a felony committed at 18 years of age or older, the person can petition after serving at least 10 years;
- If serving a sentence for a felony committed at 17 years of age or younger, the person can petition after serving at least 7 years; or
- If not meeting the criteria above, the person may petition with the consent of the prosecuting attorney.

Additionally: establishes the criteria for the petition and states the person must meet one or more of the specified requirements for a hearing, sets court requirements for responding to a petition, requires the prosecuting attorney to make reasonable efforts to notify victims and survivor of victims of any petition filed pursuant to this section and the date of the hearing, states any incarcerated individual who is eligible to file a petition and is who is unable to afford counsel shall be entitled to have counsel appointed at no cost to the individual; and, outlines the Department of Corrections’ (DOC) notification requirements to any incarcerated individuals, sentencing courts, prosecuting attorney, and public defense agency for the judicial district in which the individual was sentenced. Individuals are not allowed to petition for a modification if the person’s original sentence was imposed under RCW 9.94A.570 or 10.95.030. Additionally, does not allow courts to modify the sentence below the mandatory minimum sentence, if such a term is required by law. The bill does allow the court to impose an exceptional sentence below the standard range and below the mandatory minimum enhancement term, if one exists.

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

Section 5 Amends RCW 9.94A.535 by adding a mitigated circumstance for the court to consider when imposing a sentence below the standard range.

Section 6 States that if specific funding is not provided for the bill by June 20, 2024, the act is null and void.

EXPENDITURES

Assumptions.

None.

Impact on the Caseload Forecast Council.

None.

Impact Summary

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

Impact on prison and jail beds.

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

This bill has no impact on jail beds.

Impact on local and Juvenile Rehabilitation (JR) beds.

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

Impact on Community Corrections Caseload.

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

Individual State Agency Fiscal Note

Bill Number: 2001 2S HB	Title: Sentence modification	Agency: 103-Department of Commerce
--------------------------------	-------------------------------------	---

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	0.4	0.2	0.4	0.4
Account					
General Fund-State 001-1	0	1,692,610	1,692,610	3,385,220	3,385,220
Total \$	0	1,692,610	1,692,610	3,385,220	3,385,220

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: Yvonne Walker	Phone: 360-786-7841	Date: 02/09/2024
Agency Preparation: Bret Skipworth	Phone: 360-725-3042	Date: 02/14/2024
Agency Approval: Bret Skipworth	Phone: 360-725-3042	Date: 02/14/2024
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/14/2024

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.

Sec 3(10)

- (a) The office of crime victims advocacy shall create a flexible fund to serve victims and survivors of victims impacted by this act. The office may contract for administration of this fund. The flexible fund may be used for purposes including, but not limited to:
- (i) Relocation assistance related to a change in safety planning associated with the petitioner's resentencing;
 - (ii) Traveling to and from court for resentencing hearings; and
 - (iii) Out-of-pocket expenses for psychotherapy associated with the committed offense or resentencing.
- (b) The office of crime victims advocacy shall contract with prosecuting attorney's offices to offer victim advocacy services for victims impacted by this act. Such victim advocacy services must include:
- (i) Legal advocacy to understand the resentencing process and how a victim can exercise their rights;
 - (ii) Safety planning;
 - (iii) Options to participate in a restorative justice program with the petitioner; and
 - (iv) Case management to address needs that may arise as a result of resentencing.
- (c) The office of crime victims advocacy shall contract with an entity with expertise in victim services to provide training for victim advocates embedded within prosecutor's offices regarding safety planning and other case management services that victims impacted by this act may require.

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.

For the purposes of this fiscal note, OCVA anticipated a pass-through total of \$1,640,000 per state fiscal year.

Department of Correction data shows the number of individuals currently incarcerated, who could file these petitions, is estimated to be up to 2,558. The number of victims and cases for which this has an impact could change; further information is needed for a more accurate analysis. Therefore, costs are partially indeterminate.

To complete the work outlined in this bill, the Department of Commerce anticipates the following FTE needs per year:

Com Spec 5: 0.05 FTE

- Provides supervision and oversight to staff
- Provides supervision and oversight regarding the administrative budget and pass through allocations
- Participates in planning and implementation meetings re: victim witness services, resource needs, and infrastructure
- Develops grant templates, and additional tools for the state administrative role

Com Spec 3: 0.10 FTE

- Manages the Victim Witness grant program; this includes RFP development, obligation processes, data tracking and review, information sharing and technical assistance, monitoring pass through budget
- Manages individual victim witness grants; this includes application reviews, invoice reviews, invoice payment, data reviews,

risk assessments, monitoring plans, technical assistance

-Maintains relationships with grantees and the Washington Association of Prosecuting Attorneys, represents OCVA as needed in stakeholder meetings and connections, attends training and technical assistance events

Com Spec 1: 0.10 FTE

-Enters grants into Contract Management System, routes grants for signature

-Pulls reports, maintains records, assists in compliance and monitoring tasks

-Supports all centralized grant administration tasks

MA 3: 0.10 FTE

-Maintains and updates InfoNet, the statewide data collection system where services and activities are reported

-Provides InfoNet technical assistance, pulls customized reports

-Website supports; includes posting RFPs, as well as any additional information and resources about the program, etc.

Pass Through: \$1,640,000

-\$375,000 for Victim Witness staffing

-There are 39 victim witness programs in the state; located in each county's prosecuting attorney's office.

-The current Victim Witness Grant Program is 2.5 Million per year (comprised of funding via the VOCA State Plan and GFS long standing commitments).

-Using that 2.5 Million as an approximate level for 1.0 FTE for each program, an estimated 15% increase in work would be \$375,000 per SFY

-\$1,200,000 for relocation assistance, emergency financial assistance, etc.

-this aligns with estimates provided for HB 2065, which has a similar focus. While there are more people eligible for resentencing in this act, there will be a similar capacity for the system to process these petitions and work with victims each state fiscal year.

-\$65,000 for the training program

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	1,692,610	1,692,610	3,385,220	3,385,220
Total \$			0	1,692,610	1,692,610	3,385,220	3,385,220

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		0.4	0.2	0.4	0.4	
A-Salaries and Wages		27,304	27,304	54,608	54,608	
B-Employee Benefits		10,426	10,426	20,852	20,852	
C-Professional Service Contracts						
E-Goods and Other Services		2,467	2,467	4,934	4,934	
G-Travel						
J-Capital Outlays						
M-Inter Agency/Fund Transfers						
N-Grants, Benefits & Client Services		1,640,000	1,640,000	3,280,000	3,280,000	
P-Debt Service						
S-Interagency Reimbursements						
T-Intra-Agency Reimbursements		12,413	12,413	24,826	24,826	
9-						
Total \$		0	1,692,610	1,692,610	3,385,220	3,385,220

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

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
Commerce Specialist 1	62,888		0.1	0.1	0.1	0.1
Commerce Specialist 3	84,518		0.1	0.1	0.1	0.1
Commerce Specialist 5	98,040		0.1	0.0	0.1	0.1
Management Analyst 3	76,607		0.1	0.1	0.1	0.1
Total FTEs			0.4	0.2	0.4	0.4

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

Bill Number: 2001 2S HB	Title: Sentence modification	Agency: 310-Department of Corrections
--------------------------------	-------------------------------------	--

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
Account					
General Fund-State 001-1	0	37,000	37,000	0	0
Total \$	0	37,000	37,000	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: Yvonne Walker	Phone: 360-786-7841	Date: 02/09/2024
Agency Preparation: Matthew Friesen	Phone: (360) 725-8428	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: 02/14/2024

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.

2001 2SHB differs from the previous versions bill in the following ways:

Section 3(6)(a)(iii) adds the soonest allowable release date from total confinement for any petitioner resentenced pursuant to this section may be no sooner than six months after the date of the hearing to consider the petition.

Section 3(17) adds when any person granted a modified sentence pursuant to this section is within six months of his or her expected release date from total confinement, the Department of Corrections (DOC) must prepare and make available an individual reentry plan under chapter 72.09 RCW and the resources necessary for the person to complete the plan.

Section 6 is rewritten to state that if specific funding is not provided for the bill by June 20, 2024, the act is null and void. The previous bill language, in which no less than 25% of the savings realized as a result of Section 3 are to be designated to fund the costs associated with petitions and proceedings under Section 3 of this act, is removed.

The following impacts from previous versions of this bill remain unchanged:

An ACT relating to providing judicial discretion to modify sentences in the interests of justice; amending RCW 10.73.100; adding a new section to chapter 9.94A RCW; and creating new sections.

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

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

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

Section 3(15) adds a person may not petition for a modification of sentence pursuant to this section if the person's original sentence was imposed under RCW 9.94A.540 or 10.95.030. Additionally, it does not allow courts to modify the sentence below the mandatory minimum sentence, if such a term is required by law.

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

Section 5(1)(l) amends RCW 9.94A.535 by adding the court may impose an exceptional sentence below the standard range, to include petitioning the court for modification of sentence pursuant to section 3 of this act to the list of mitigating circumstances.

Effective date is assumed 90 days after adjournment of the session in which this bill is passed.

II. B - Cash receipts Impact

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

None.

II. C - Expenditures

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

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

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

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

Administrative costs associated with responding to requests, petitions, and proceedings relating to this bill are expected, which include but are not limited to: Providing notice to the incarcerated individuals, sentencing court, prosecutor, and defense agency; Law Library material to petition for consideration of sentence modification; DOC records to support the petition for consideration; and transition support for an individual's reentry plan and the resources necessary for the person to complete the plan. Due to the indeterminate number and outcomes of petitions for resentencing, the administrative cost to DOC is indeterminate; it is assumed that DOC will "true-up" the needs requested in this fiscal note in a future decision package should this legislation be signed 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 120 hours = \$22,200

IT Business Analyst| \$185 per hour x 20 hours = \$3,700

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

Total One-Time Costs In FY2025 \$37,000

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

Assumptions:

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

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

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

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

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

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

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	37,000	37,000	0	0
Total \$			0	37,000	37,000	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		37,000	37,000		
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-					
Total \$	0	37,000	37,000	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 Services (100)		37,000	37,000		
Total \$		37,000	37,000		

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.