

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 2065 E 2S 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	24,000	0	0	80,000	0	0	26,000
<b>Total \$</b>	<b>0</b>	<b>0</b>	<b>24,000</b>	<b>0</b>	<b>0</b>	<b>80,000</b>	<b>0</b>	<b>0</b>	<b>26,000</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	24,000	.4	0	0	80,000	.3	0	0	26,000
Caseload Forecast Council	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Commerce	.2	3,817,610	3,817,610	3,817,610	.4	7,635,220	7,635,220	7,635,220	.4	7,635,220	7,635,220	7,635,220
Department of Commerce	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Department of Children, Youth, and Families	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Corrections	12.5	3,498,000	3,498,000	3,498,000	25.0	6,616,000	6,616,000	6,616,000	25.0	6,616,000	6,616,000	6,616,000
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>13.4</b>	<b>8,806,010</b>	<b>8,806,010</b>	<b>8,830,010</b>	<b>29.8</b>	<b>21,104,554</b>	<b>21,104,554</b>	<b>21,184,554</b>	<b>29.7</b>	<b>21,104,554</b>	<b>21,104,554</b>	<b>21,130,554</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 Commerce	.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 2/23/2024
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# Judicial Impact Fiscal Note

<b>Bill Number:</b> 2065 E 2S 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: Yvonne Walker	Phone: 360-786-7841	Date: 02/15/2024
Agency Preparation: Chris Conn	Phone: 360-704-5512	Date: 02/23/2024
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 02/23/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/23/2024

195,371.00

Request # 232-1

## 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

195,371.00

Form FN (Rev 1/00)

None

195,371.00

Form FN (Rev 1/00)

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Request # 232-1

Bill # 2065 E 2S HB

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2065 E 2S 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: Yvonne Walker	Phone: 360-786-7841	Date: 02/15/2024
Agency Preparation: Katrin Johnson	Phone: 360-586-3164 1	Date: 02/22/2024
Agency Approval: Sophia Byrd McSherry	Phone: 360-586-3164	Date: 02/22/2024
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/23/2024

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

The following provisions of Engrossed Second 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, 2023, 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 if the court declines to set a hearing or modify a sentence, the petitioner may file a new petition after three years or sooner if authorized by the court, or the petitioner may appeal.

Section 2(4) provides that within six months of a petitioner's release, the Department of Corrections must prepare an individualized reentry plan.

Section 2(5) provides a right to counsel.

Section 2(6)-(8) requires the Office of Crime Victim Advocacy to contract with prosecuting attorney offices for victim services, establish a flexible fund to support victims impacted by this Act, and provide training to victim advocates.

Section 2(9) provides that beginning January 1, 2027, this section applies to all persons meeting the requirements of subsection (2).

Section 2(10) 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(11) applies the section retroactively, regardless of the date of the offense or conviction.

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

Section 4 provides a standard null and void clause if specific funding is not provided by June 30, 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 E2SHB 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."

Consistent with the substitute house bill, E2SHB 2065 continues to require litigation of significant issues 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 substantial 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 E2SHB 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 E2SHB 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 E2SHB 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 E2SHB 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 E2SHB 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 E2SHB 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 2SHB 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 E2SHB 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 E 2S 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: Yvonne Walker	Phone: 360-786-7841	Date: 02/15/2024
Agency Preparation: Kathy Cody	Phone: (360) 480-7237	Date: 02/21/2024
Agency Approval: Jamie Langford	Phone: (360) 870-7766	Date: 02/21/2024
OFM Review: Val Terre	Phone: (360) 280-3073	Date: 02/21/2024

## 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.*

Changes to Engrossed Second Substitute House Bill 2065 do not change the Office of Corrections Ombuds previous fiscal note assumptions.

Second Substitute House Bill adds a null and void clause if specific funding is not provided by June 30, 2024. Other changes to this bill do not change the Office of Corrections Ombuds previous fiscal note assumptions.

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 E 2S 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		24,000	24,000	80,000	26,000
<b>Total \$</b>		24,000	24,000	80,000	26,000

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.3	0.2	0.4	0.3
<b>Account</b>					
Legal Services Revolving Account-State 405-1	0	24,000	24,000	80,000	26,000
<b>Total \$</b>	0	24,000	24,000	80,000	26,000

### 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: Yvonne Walker	Phone: 360-786-7841	Date: 02/15/2024
Agency Preparation: Cassandra Jones	Phone: 360-709-6028	Date: 02/21/2024
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 02/21/2024
OFM Review: Val Terre	Phone: (360) 280-3073	Date: 02/22/2024

## 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. Establishes procedures for a petitioner to file a new petition if the original petition is denied and procedures for appeal. Requires the Department of Corrections (DOC) to prepare individualized reentry plans and the resources necessary for an individual to complete a plan. Entitles an eligible person to court appointed counsel at no cost. Requires Office of Crime Victims Advocacy (OCVA) to provide victim advocate support in certain instances, and to establish a flexible fund to support victims impacted by this act. Applies this section to all qualified individuals on January 1, 2027. Persons sentenced on or after July 1, 2024, for offense committed prior to July 23, 2023, shall have their offender score recalculated. Applies the act retroactively.

Section 3 - New section. Effective date July 1, 2024.

Section 4 - If funding not appropriated, act is null and void.

### 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 agencies are the Department of Corrections (DOC) and the Office of the Governor (GOV). 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 agencies' fiscal note. Appropriation authority is necessary in the AGO budget.

#### AGO AGENCY ASSUMPTIONS:

DOC will be billed for non-King County rates:

FY 2025: \$11,000 for 0.1 Assistant Attorney General FTE (AAG) and 0.1 Paralegal 1 FTE (PL1)

FY 2026: \$27,000 for 0.1 AAG and 0.1 PL1

FY 2027: \$27,000 for 0.1 AAG and 0.1 PL1

GOV will be billed for non-King County rates:

FY 2025 and in each FY thereafter: \$13,000 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. Ambiguities in the bill regarding application of the bill's requirements will drive a need for legal advice and representation in post-sentence review petitions filed pursuant to RCW 9.94A.585(7). Determining the amount of legal advice and number of petitions is difficult, but is roughly estimated to be 60 hours for FY 2025, and 120 hours for FY 2026 and FY 2027, when the bulk of resentencing hearings would be likely to occur.

The volume of potential resentencing hearings that DOC would likely be required to facilitate, virtually or otherwise, would likely require AGO advice and involvement at times to assist in coordination with courts and parties to resentencing proceedings. There will likely be a need for advice concerning records issues relating to the provisions in the bill, putting an individual's disciplinary and rehabilitative history at issue in resentencing hearings. This additional work is estimated to be approximately 20 hours for FY 2025 and 40 hours for FY 2026 and FY 2027.

DOC: Total non-King County workload impact:

FY 2025: \$11,000 for 0.1 AAG and 0.1 PL1

FY 2026: \$27,000 for 0.1 AAG and 0.1 PL1

FY 2027: \$27,000 for 0.1 AAG and 0.1 PL1

2. Assumptions for the AGO COR Legal Services for the Office of the Governor (GOV):

The AGO will bill GOV for legal services based on the enactment 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 Office of the Corrections Ombuds (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.

GOV: Total non-King County workload impact:

FY 2025 and in each FY thereafter: \$13,000 for 0.1 AAG and 0.1 PL1

3. 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.

Total non-King County Workload:

FY 2025: \$24,000 for 0.1 AAG and 0.1 PL1

FY 2026 and FY 2027: \$40,000 for 0.2 AAG and 0.1 PL1  
 FY 2028 and in each FY thereafter: \$13,000 for 0.1 AAG and 0.1 PL1

**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 Revolving Account	State	0	24,000	24,000	80,000	26,000
<b>Total \$</b>			0	24,000	24,000	80,000	26,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.3	0.2	0.4	0.3
A-Salaries and Wages		17,000	17,000	54,000	18,000
B-Employee Benefits		5,000	5,000	18,000	6,000
E-Goods and Other Services		2,000	2,000	8,000	2,000
<b>Total \$</b>	0	24,000	24,000	80,000	26,000

**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
Assistant Attorney General	129,100		0.1	0.1	0.2	0.1
Management Analyst 5	95,184		0.1	0.1	0.1	0.1
Paralegal 1	69,072		0.1	0.1	0.1	0.1
<b>Total FTEs</b>			0.3	0.2	0.4	0.3

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

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Corrections (COR)		24,000	24,000	80,000	26,000
<b>Total \$</b>		24,000	24,000	80,000	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.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2065 E 2S 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: Yvonne Walker	Phone: 360-786-7841	Date: 02/15/2024
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/20/2024
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/20/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/20/2024

## 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.*

# **E2SHB 2065**

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

**101 – Caseload Forecast Council  
February 16, 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 July 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 state the court may not schedule a resentencing hearing under this section before January 1, 2025.

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 the office of crime victims advocacy to establish a flexible fund to support victims and survivors of victims impacted by 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.

Section 4 States that if specific funding is not provided for the bill by June 30, 2024, the act is null and void.

## **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 E 2S HB	<b>Title:</b> Offender score recal.	<b>Agency:</b> 103-Department of Commerce
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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	0.4	0.2	0.4	0.4
<b>Account</b>					
General Fund-State 001-1	0	3,817,610	3,817,610	7,635,220	7,635,220
<b>Total \$</b>	0	3,817,610	3,817,610	7,635,220	7,635,220

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: 02/15/2024
Agency Preparation: Bret Skipworth	Phone: 360-725-3042	Date: 02/23/2024
Agency Approval: Gwen Stamey	Phone: (360) 790-1166	Date: 02/23/2024
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/23/2024



## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

2SHB 2065:

Section 2 (4) Requires that the Office of Crime Victims Advocacy (OCVA) contract with prosecuting attorneys' offices to offer victim advocacy services for victims impacted by this act.

-This is a change from SHB 2065, which required DOC provide victim advocate support to victims of sex offenses or intimate partner domestic violence offenses.

Section 2 (5) Requires that OCVA develop a flexible fund to support victims and survivors impacted by this act.

-This is a change from SHB 2065, which required DOC to provide a flexible fund to victims of gender based violence.

Section 2 (6) Requires OCVA to contract with an entity to provide training to victim advocates embedded in prosecuting attorneys' offices.

-This is a new addition; not in SHB 2065.

Adds a null and void clause making the act null and void unless funded in the budget.

### 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 anticipates a pass-through total of \$3,765,000 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 1,200. The number of victims and cases for which this has an impact could increase; further information is needed for a more accurate analysis. Therefore, costs are partially indeterminate.

The following staffing levels are estimated to be needed in order to conduct the work of this bill:

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: \$3,765,000

-\$2,500,000 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).

-The intent was for this to fund a baseline of about \$60,000 for each program, supporting 1.0 FTE

-The Department of Commerce recognizes that the current funding is not adequate to maintain a full FTE in each office due now due to cost-of-living adjustments

-The proposed bill will increase the required work of the victim witness programs

-Using the \$2.5 Million as an approximate level for 1.0 FTE for each program. This amount aims to support about 1.0 FTE more at each office.

-\$1,200,000 for relocation assistance, emergency financial assistance, etc. It is assumed that approximately 1,200 individuals incarcerated at the Washington State Department of Corrections would be eligible for resentencing under SHB 2065.

-\$65,000 for 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	3,817,610	3,817,610	7,635,220	7,635,220
<b>Total \$</b>			0	3,817,610	3,817,610	7,635,220	7,635,220

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		3,765,000	3,765,000	7,530,000	7,530,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements		12,413	12,413	24,826	24,826
9-					
<b>Total \$</b>		0	3,817,610	3,817,610	7,635,220

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
<b>Total FTEs</b>			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

<b>Bill Number:</b> 2065 E 2S 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: Yvonne Walker	Phone: 360-786-7841	Date: 02/15/2024
Agency Preparation: Jay Treat	Phone: 360-556-6313	Date: 02/21/2024
Agency Approval: Crystal Lester	Phone: 360-628-3960	Date: 02/21/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/23/2024

## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Comparison of 2065 2SHB to 2065 E2SHB:

The engrossed second substitute bill provides the following changes:

New Section 2(2)(i) & (v) Modifies the reasons for which a court may deny a motion for resentencing.

New Section 2(3) Requires a court to state the basis of its decision on the record if denying a petitioner's request for a hearing or resentencing and authorizes petitioners to appeal a denial of a hearing or an order entered pursuant to a resentencing hearing.

New Section 2(5) Establishes when an incarcerated person is eligible to have counsel appointed if the individual is unable to afford counsel.

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

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2065 2SHB

New Section 2 is amended as follows:

Lowers an offender's score which will lessen the amount of time young people are incarcerated.

Modifies the earliest release date a currently incarcerated individual must have to qualify for resentencing from January 1, 2025 to July 1, 2025.

Clarifies that a court may, in addition to other stated factors, only deny a motion for resentencing if the petitioner has a significant disciplinary record while incarcerated or the petitioner has an insignificant record of rehabilitation while incarcerated.

Prevents courts from scheduling resentencing hearings until January 1, 2025.

Removes a requirement that the Department Of Corrections (DOC) provide victim advocate support to victims of sex offenses or intimate partner domestic violence offenses committed by a petitioner seeking resentencing under the act, and instead requires the Office of Crime Victims Advocacy (OCVA) to contract with prosecuting attorneys' offices to offer victim advocacy services for victims impacted by this act.

Removes a requirement that the DOC establish a flexible fund to support victims of gender-based violence committed by perpetrators seeking resentencing under the act and instead requires the OCVA to establish a flexible fund to support victims and survivors of victims impacted by this act, which the OCVA may do by contracting for the administration of the fund.

Requires the OCVA to contract with an entity with expertise in victim services to provide training to victim advocates embedded in prosecuting attorneys' offices.

New Section 4 adds a null and void clause making the bill null and void if specific funding is not provided by June 20, 2024 in

the omnibus appropriations act.

**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 E 2S 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
FTE Staff Years	0.0	25.0	12.5	25.0	25.0
<b>Account</b>					
General Fund-State 001-1	0	3,498,000	3,498,000	6,616,000	6,616,000
<b>Total \$</b>	0	3,498,000	3,498,000	6,616,000	6,616,000

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: 02/15/2024
Agency Preparation: Apuroop Dasari	Phone: 3607258428	Date: 02/23/2024
Agency Approval: Trisha Newport	Phone: (360) 725-8428	Date: 02/23/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/23/2024



## Part II: Narrative Explanation

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

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

2065 Engrossed 2S HB differs from the previous version of this bill in the following ways:

Allows a person who was sentenced for an offense committed before July 23, 2023, whose offense score was increased due to juvenile adjudications which are not scoreable under current law to petition for a resentencing hearing if the person is currently incarcerated in total confinement.

It also provides appointed counsel to petitioners who can't afford legal counsel.

It also requires the Office of Crime Victims Advocates to provide victims advocacy and other services for victims and survivors impacted by this act.

2065 2S HB differs from the previous versions of this bill in the following ways:

Section 2(2)(c) adds a new subsection additionally stating the court may not schedule a resentencing hearing under this section before January 1, 2025.

Section 2(4) is amended by removing the Department of Corrections (DOC) and requiring the Office of Crime Victims Advocacy (OCVA) to contract with prosecuting attorneys' offices to offer victim advocacy services for victims impacted by this act.

Section 2(5) is amended by removing DOC and requiring OCVA to establish a flexible fund to support victims and survivors of victims impacted by this act.

Section 4 adds a new section which states that if specific funding is not provided for the bill by June 30, 2024, the act is null and void.

The following impacts from the previous versions of the bill remain unchanged in the substitute:

The previous versions expand 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. DOC is required 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. 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.

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

### II. B - Cash receipts Impact

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

### 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 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 Caseload Forecast Council (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.

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.

The DOC's Resentencing and Reentry Support Team (RRST) system is complex and at a high-level includes collection and release of agency documents, review, and validation of court orders, calculating sentences across all counties, hearings (virtual or in-person), mandatory victim/witness notifications, case management, health services navigation, reentry navigation, and analysis and enforcement of legal financial obligations.

Sentence recalculation is a complex process that requires exact interpretations and calculations of the law, new legislation, and court orders for post-conviction resentencing. This must be completed in a timely manner to avoid liability and holding individuals beyond DOC's jurisdiction. In addition, RRST coordinates complex services for those who are released from DOC facilities, programs, and supervision. As incarcerated individuals change supervision levels, RRST collaborates and coordinates with stakeholders, both inside and outside the criminal justice system, and DOC's Reentry and Community Corrections programs.

The increased workload from this bill would be significant and require additional staffing resources to support re-entry services. This increased workload would include building individualized reentry plan as outlined in Section 2(3). For the previous item to be set in place, DOC would be required to collect and send a large number of records to the Administrative Office of the Courts as outlined in Section 2(2)(a).

DOC currently has no ongoing funding for the Resentencing and Reentry Support Team staff and as a result the department is unable to absorb the additional resentencing caseload and new requirements outlined in the bill to include the individualized reentry plan outlined in Section 2(3) and reentry support for individuals releasing earlier than anticipated.

As of January 31, 2024, there were 4,889 incarcerated individuals in total confinement with at least one juvenile offense in their criminal history that is not a Murder 1, Murder 2, Rape 1, Rape 2, Rape of a Child, First Degree, Rape of a Child, Second Degree, Child Molestation in the First Degree, Indecent Liberties by Forcible Compulsion.

The Office of Public Defense (OPD) assumes approximately 1,200 of these individuals will be eligible for resentencing. This estimate does not include individuals with a simple possession of a controlled substance offense in their criminal history and who are also eligible for resentencing under State v. Blake. DOC included these dual resentencing eligible individuals because the department is no longer funded for Blake resentencing and would have additional impacts solely from juvenile resentencing pursuant to this bill.

The department assumes, that at a minimum, the staffing resources summarized below would be needed to manage 300 individuals resentenced in a 12-month period. This estimate is based on the OPD estimate of 1,200 potentially eligible

incarcerated individuals plus the additional estimated 300 dual eligible individuals. This estimate does not include assumptions for individuals currently serving multiple causes/sentences that may require multiple resentencing hearings in different counties nor assumptions regarding the frequency of individuals re-petitioning the court for resentencing.

These cost estimates are based on our actual experienced workload in FY 2023:

#### Resentencing & Release Manager (RRM):

The RRM analyzes information; leads multi-disciplinary work groups; develops, implements, and manages plans in response to changes involving legislation, court decisions, or other law changes impacting post-conviction re-sentencing. While the scope of this legislation is fairly narrow, based on previous experience, each of the 39 counties will have differences in implementation, prioritization, resentencing court orders and judgment and sentence (J&S) forms requiring DOC to perform this work.

FY2025 through FY2029: 1.0 FTE and \$162,257.

#### Administrative Assistant 3 (AA3)

The AA3 will assist the Resentencing Administrator by scheduling meetings, monitoring resentencing email boxes, creating agendas, taking meeting minutes, tracking actions for follow-up, recording decisions, writing, and editing memos and other documents, and assisting with tracking important data points for reporting to: DOC leadership, stakeholders, the Governor's Office, and the legislature.

FY2025 through FY2029: 1.0 FTE and \$77,420.

#### Management Analyst 4 (MA4)

The MA4 is responsible for creating processes and job aids for agency records staff related to court orders for resentencing and vacates when applicable. While the agency has created processes and job aids related to resentencing, this bill has criteria outline in Section 2(1) based on time calculations for when an individual can petition for a resentence and when a release will occur. This is new and different work than the prior resentencing efforts; therefore processes/job aids will need to be updated. Additional tracking tools will need to be developed to track: when an individual can re-petition the court under Section 2(3) if previously denied a resentence; and when a release will occur as Section 2(2) states that individuals release may not occur no sooner than 6 months after the date of resentence. A tracking tool is not used for resentencing today as the individual releases based on time calculation and does not have an option to re-petition for resentence consideration.

The MA4 position is also the primary contact for attorneys who are preparing for a potential resentence to ask questions/confirm DOC's time calculations related to sentences being served as time calculations are the agency's responsibility. For this specific bill, DOC anticipates attorneys seeking confirmation of the eligibility to be resentenced, as outlined in section 2, specifically related to time calculations should a resentence be completed and if the individual is within three years of release. This "if" scenario will be a manual time calculation by DOC staff to complete. Furthermore, the position is responsible for conducting quality assurance reviews for relevant resentencing court orders.

FY2025 through FY2029: 1.0 FTE and \$117,927.

#### Correctional Records Technicians (CRT)

The CRT will maintain a list of juvenile resentencing court orders received and identify those with State v. Blake vacate orders. The CRT is responsible to update the Criminal Conviction Record (CCR) to ensure that vacated convictions when applicable, are no longer scoring on the static portion of the WA One. The CCR is updated for every revised court order that is received for an individual.

FY2025 through FY2029: 1.0 FTEs and \$84,042.

#### Fiscal Technician 2 (FT2)

The FT2 will review all release orders pursuant to resentencing, calculate associated refunds of Legal Financial Obligations (LFOs) and Cost of Supervision (COS) fees if applicable, provide release funds (also known as gate money) and release any other incarcerated funds. Resentencing eligible individuals may have had deductions taken from their accounts while

confined and applied to legal financial obligations owing to the county clerks that are no longer required. As individuals may have had deductions to more than one county clerk or on more than one cause number, it is a manual process to sort out the payments to ensure that the individual receives the appropriate refund from the counties for vacated causes or when the court order no longer orders legal financial obligations. Additionally, an estimated 300 of the potentially eligible individuals have an underlying possession of a controlled substance offense that could also be resentenced pursuant to State v. Blake and could be eligible for COS refunds.

FY2025 through FY2029: 1.0 FTEs and \$68,905.

#### Communications Consultant 3 (CC3)

The CCEs complete expedited public disclosure reviews to aid legal proceedings related to resentencing. Section 2(2) states that courts may deny a motion for resentencing only if the petitioner has: (i) a significant disciplinary record while incarcerated; (ii) an insignificant record of rehabilitation; and (iii) engaged in pervasive and persistent antisocial behavior while incarcerated. DOC anticipates that the CCS would gather, redact private/confidential information, and provide disciplinary records, education, treatment and programming history and other relevant information as requested. Based on previous experience with Robbery 2 resentencing, the department anticipates an increase in public disclosure requests from the media and the public pursuant to individual resentencing cases.

FY2025 through FY2029: 3.0 FTEs and \$416,866.

#### Corrections Specialist 3 (CS3)

Section 2(4) states that the department must prepare an individual reentry plan (IRP) for individuals resentenced and within six months of their expected release date from total confinement. The department assumes this is a new/revised IRP based on the individuals new release date. The CS3s are responsible to track court movement to identify those needing pre-release programming and reentry planning support and work closely with classification counselors and health services staff to determine reentry needs of the individual and prioritize services and resources for those without support upon release. These staff lead Reentry Team Meetings (RTMs) with the individual, a classification counselor, and any other staff involved in the individual's reentry plan and conduct post-release follow-up with impacted individuals to ensure continuity of services and help with connections to organizations that can assist individuals with long-term goals such as education or career development.

FY2025 through FY2029: 3.0 FTEs and \$360,765.

Under current law, the victims and witnesses of a crime, the next of kin if the crime of conviction was homicide, or anyone identified in writing by the Prosecuting Attorney are eligible to enroll in DOC's victim/witness notification service. If an incarcerated individual was convicted of a domestic violence court order violation or a violent, sex, serious drug, or felony harassment offense and is sentenced to confinement in prison, the victims and witnesses are eligible for advanced notification of movement through the prison system and release to the community.

This bill will result in some immediate releases from total confinement, shorter sentences, and earlier eligibility for camp or partial confinement programs. Additional resources are needed to manage the increased number of victim and witness notifications and to provide assistance with safety planning and other support as required.

#### Program Specialist 2 (PS2)

The PS2 is responsible for the Victim Services Program to complete victim witness notifications related to resentenced individuals. The staff contact enrolled and non-enrolled victims when an individual serving an eligible sentence is being resentenced and released and offer resources for impacted victims.

FY2025 through FY2029: 1.0 FTE and \$80,566.

To facilitate access to resentencing hearings in a timely, safe, and cost-effective manner, the department will require an additional 12.0 AA2s and 1.0 IT Customer Support positions for virtual hearing rooms. DOC has been able to absorb costs to meet current resentencing obligations on an emergency basis. However, in the absence of COVID funding and without the additional ongoing resources, we will be unable to absorb the increased resentencing hearings pursuant to this bill.

**Administrative Assistant (AA2)**

The AA2 assist with electronic hearings and programming needs, to include document redaction, hearing coordination, and consistent recordkeeping. For continuity purposes, each court is provided a single point of contact for hearings coordination. The positions support 11 prison facilities and community corrections locations (one per facility, except for the Monroe Correctional Complex that will require two due to the size of the facility).

FY2025 through FY2029: 12.0 FTEs and \$1,060,100.

**IT Customer Support – Journey**

The position is responsible for providing ongoing network infrastructure maintenance and support to allow telepresence stations secure access to the internet for resentencing hearings.

FY2025 through FY2029: 1.0 FTE and \$122,592.

The DOC requests funding for the indirect costs of agency administration, which includes 3.0 FTEs and \$347,426 in FY2025, and ongoing, for the purpose of supporting Payroll, Human Resources, Information Technology, and other expenses associated with the hiring and employment of staff to implement this legislation. The approved agency indirect rate and associated cost of administration are calculated based on the salaries and benefits of staff conducting back office administrative functions, divided by all remaining salaries and benefits.

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	3,498,000	3,498,000	6,616,000	6,616,000
<b>Total \$</b>			0	3,498,000	3,498,000	6,616,000	6,616,000

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		25.0	12.5	25.0	25.0
A-Salaries and Wages		1,871,000	1,871,000	3,742,000	3,742,000
B-Employee Benefits		681,000	681,000	1,362,000	1,362,000
C-Professional Service Contracts		26,000	26,000		
E-Goods and Other Services		173,000	173,000	346,000	346,000
G-Travel		190,000	190,000	380,000	380,000
J-Capital Outlays		199,000	199,000	38,000	38,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services		11,000	11,000	54,000	54,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements		347,000	347,000	694,000	694,000
9-					
<b>Total \$</b>	0	3,498,000	3,498,000	6,616,000	6,616,000

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
Administrative Assistant 2 - Teamsters	63,452		12.0	6.0	12.0	12.0
Administrative Assistant 3	54,133		1.0	0.5	1.0	1.0
Communications Consultant 3 - Teamsters	106,643		3.0	1.5	3.0	3.0
Correctional Records Technician	59,783		1.0	0.5	1.0	1.0
Corrections Specialist 3	82,420		2.0	1.0	2.0	2.0
Corrections Specialist 3 - Teamsters	98,934		1.0	0.5	1.0	1.0
Fiscal Technician 2	46,866		1.0	0.5	1.0	1.0
IT Customer Support - Journey	92,679		1.0	0.5	1.0	1.0
Management Analyst 4	88,699		1.0	0.5	1.0	1.0
Program Specialist 2	56,817		1.0	0.5	1.0	1.0
Resentencing & Release Manager	126,526		1.0	0.5	1.0	1.0
<b>Total FTEs</b>			25.0	12.5	25.0	25.0

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

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administration & Support Svcs (100)		515,000	515,000	964,000	964,000
Correctional Operations (200)		1,294,000	1,294,000	2,416,000	2,416,000
Interagency Payments (600)		76,000	76,000	152,000	152,000
Offender Change (700)		1,613,000	1,613,000	3,084,000	3,084,000
<b>Total \$</b>		3,498,000	3,498,000	6,616,000	6,616,000

## 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 E 2S 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 initial and subsequent 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: 02/22/2024
Leg. Committee Contact: Yvonne Walker	Phone: 360-786-7841	Date: 02/15/2024
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/22/2024
OFM Review: Danya Clevenger	Phone: (360) 688-6413	Date: 02/23/2024



## **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 E2SHB 2065, comparing it to the impact of 2SHB 2065.

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

The proposed engrossed second substitute bill would add a condition under which a petitioner's disciplinary record while incarcerated may be overcome when a court is considering whether to grant a motion for resentencing under section 2, and would add instructions for courts to consider regarding the impact of a person's release on any victims of sex offenses or domestic violent offenses committed against an intimate partner.

Additionally, the engrossed second substitute would require that a court provide the basis for its decision on the record if it denies a person's petition under section 2 or declines to modify a person's sentence under that section. If a court denies a person's petition or declines to modify a person's sentence, they would be able to appeal these decisions, and, after a showing of a change in circumstances, file a new petition no earlier than three years after their initial petition was denied or their sentence was not modified, unless otherwise authorized by the court.

Finally, the engrossed second substitute would specify that any incarcerated person who is eligible to file a petition under section 2 and cannot afford counsel would be entitled to have counsel appointed at no cost to represent them for the petition and proceedings under this section, however such people would not be entitled to counsel for any appeals or subsequent petitions under section 2.

#### **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 July 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 July 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.

A court would be required to provide the basis for its decision on the record if it denies a person's petition under section 2 or declines to modify a person's sentence under that section. If a court denies a person's petition or declines to modify a person's sentence, they would be able to appeal these decisions, and, after a showing of a change in circumstances, file a new petition no earlier than three years after their initial petition was denied or their sentence was not modified, unless otherwise authorized by the court.

Any incarcerated person who is eligible to file a petition under section 2 and cannot afford counsel would be entitled to have counsel appointed at no cost to represent them for the petition and proceedings under this section, however such people would not be entitled to counsel for any appeals or subsequent petitions under section 2.

Beginning on January 1, 2027, section 2 would apply to all people incarcerated in total confinement with a release date of July 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.

Courts would be required not to schedule resentencing hearings under this section before January 1, 2025.

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

Section 4 would specify that if funding for the purposes of this bill is not provided by June 30, 2024 in the omnibus appropriations act, the bill would be null and void.

## **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 the ability for people whose petitions under section 2 are denied or whose sentences are not modified to appeal these decisions, or upon a showing of a change in circumstances, file a subsequent petition under section 2 after three years, the proposed engrossed second substitute bill would lead to additional proceedings under section 2, and an associated increase in prosecutor and court costs.

It is unknown, however, how many additional petitions may result from the provisions of the engrossed second substitute, or what the associated increased demand for prosecutor time might be, so the magnitude of the associated local government expenditure increase 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:**

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

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

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

In addition to initial petitions filed by people currently incarcerated who meet the eligibility criteria of section 2, people whose petitions under section 2 are denied or whose sentences are not modified would be able to appeal these decisions, or upon a showing of a change in circumstances, file a subsequent petition under section 2 after three years, leading to additional petitions and an associated demand for prosecutor time.

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, how many subsequent petitions may be filed following an initial denial or a decision not to modify a person's sentence, 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