

Judicial Impact Fiscal Note

Bill Number: 5894 SB	Title: Unlawful activity/properties	Agency: 055-Admin Office of the Courts
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2016	FY 2017	2015-17	2017-19	2019-21
Counties					
Cities					
Total \$					

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

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 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.

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Request # 5894 SB-1

Part II: Narrative Explanation

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

Please see attached Judicial Impact Note (JIN)

II. B - Cash Receipts Impact

II. C - Expenditures

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Part II: Narrative Explanation

This bill would create the crime of Criminal Trespass of a Dwelling in Foreclosure. The bill would include provisions authorizing persons other than the owner of the property to proceed to an unlawful detainer action against an alleged tenant and have the alleged tenant arrested for activity that constitutes a public nuisance substantially affected the safety of a neighborhood.

The bill would authorize an owner or agent of an owner who has demanded that a tenant by sufferance vacate property to request law enforcement to remove the person for Criminal Trespass in the first degree.

The bill would require law enforcement, under the Residential Landlord-Tenant Act, to make a reasonable attempt to discover the identity of the landlord and notify him or her, in writing, whenever it is found that a tenant or other resident of a dwelling is engaged in criminal street gang activity or human trafficking or there has been a call to a rental property to investigate such crimes.

Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts

RCW 9A.52.070 would be amended (Section (1)) to say a person is guilty of criminal trespass in the first degree if: a) he or she knowingly enters or remains unlawfully in a building; or (b) he or she is a tenant by sufferance as described in RCW 59.04.050, or resides at a rental property and is not listed as a tenant on a rental agreement or as a guest in an affidavit signed by the owner or an agent of the owner of the property, and he or she refuses to immediately upon demand surrender possession of the premises to the owner, or vacate the property, including other rental areas or common areas held by the owner.

Section (2)(a) In any prosecution under subsection (1)(b) of this section, it is a defense that the person who refuses to surrender possession or vacate the property can produce:(i) an executed copy of a written rental agreement as provided in RCW 59.18.065, identifying the person as a lawful tenant of the rental property; or ii) An affidavit signed by the owner or an agent of the owner that allows the person to reside as a guest at the rental property for a specified period of time. (b) It is not a defense in any prosecution under subsection (1)(b) of this section that the person who refuses to surrender possession or vacate the property was invited into the property by a lawful tenant of the property unless the tenant was an agent of the owner.

RCW 9A.52.090 would be amended (Section 4) to say that these defenses do not apply to a person trespassing in a dwelling in which a foreclosure action is currently pending or where the dwelling has been foreclosed upon and the dwelling is being prepared for sale.

A new section would be added to chapter RCW 9A.52 to read as follows:

(1) A person is guilty of criminal trespass of a dwelling in foreclosure if he or she knowingly enters or remains unlawfully in a dwelling in which an action is currently pending for foreclosure or has been recently filed on the dwelling and which has been vacated by the owner of record. Any person with knowledge of the status of a property may report the trespass to law enforcement regardless of his or her status as owner of the property. (2) Criminal trespass of a dwelling in foreclosure is a gross misdemeanor. (3) If a person arrested under this section claims to be a tenant under a written or oral lease, then the alleged landlord or a neighbor who has made every reasonable effort to notify the property owner of record regarding the nuisance or trespass may proceed directly to an unlawful detainer action. A person may petition the appropriate district or superior court to have an alleged tenant arrested under this section and removed from a premise if the: (a) Alleged tenant is engaging in activity that constitutes a public nuisance, and the noncompliance substantially affects the safety of the neighborhood; or (b)

Landlord fails to evict the tenant causing the public nuisance or to notify the tenant to cease the public nuisance. (4) A person may not be held liable in any cause of action for bringing an eviction action against a tenant under this section if the eviction action was brought in good faith. (5) At the unlawful detainer action, the court must determine the following: (a) Whether the person arrested is actually a tenant at the dwelling. In making the determination, the court must consider whether the lease is in writing or oral and must make every possible effort to provide notice to the owner of record of the property to confirm the alleged tenant's status; (b) Whether the person arrested has been engaged in an activity at the premises that is considered a public nuisance to the neighborhood, or has allowed anyone else to engage in an activity at the premises that is considered a public nuisance to the neighborhood. In determining whether an alleged tenant is engaged in public nuisance activity, a court must consider the totality of the circumstances, including factors such as whether there have been a significant number of complaints to the landlord about the alleged tenant's activities at the property, damages done by the alleged tenant to the property, damages done by the alleged tenant to the property of other tenants or neighbors, harassment or threats made by the alleged tenant to other tenants or neighbors that have been reported to law enforcement agencies, any police incident reports involving the alleged tenant, and the alleged tenant's criminal history. 6) For the purposes of this section, "public nuisance" has the same meaning as defined in RCW 9 .66.010.9

II.B - Cash Receipt Impact

No cash receipt impact.

II.C – Expenditures

Based on input from the courts, the impact would primarily be in the Seattle area. It may cause more jury trials that can last a day or more. However, on a statewide basis, the courts do not expect a large increase of offenses.