

JUDICIAL IMPACT FISCAL NOTE

Bill Number: 5038 SSB AMS PADD S1714.5	Title: Incentivized Evidence Disclosure	Agency: 055 – Admin Office of the Courts (AOC)
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
Total:					

Estimated Expenditures from:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
STATE					
FTE – Staff Years					
Account					
General Fund – State (001-1)	INDETERMINATE				
State Subtotal					
COUNTY					
County FTE Staff Years					
Account					
Local - Counties					
Counties Subtotal					
CITY					
City FTE Staff Years					
Account					
Local – Cities					
Cities Subtotal					
Local Subtotal					
Total Estimated Expenditures:					

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.

Legislative Contact:	Phone:	Date:
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Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date:
OFM Review:	Phone:	Date:

Part II: Narrative Explanation

This bill would amend RCW 10.58 RCW (Criminal Procedure). The bill would require that before the state may introduce any testimony or statement of an informant in a criminal proceeding, the state must request and disclose specified material and information to the defendant. The state would be required to request the specified material and information from the investigative agency, the informant, and investigative agencies and prosecutors in jurisdictions where the informant has a criminal record or pending charges. The state would be required to disclose to the defendant the results of those requests and any other material and information that is known or reasonably available to be obtained from a review of material and information internal to the prosecutor's office.

The state would be required to disclose the required materials and information as soon as practicable after discovery, but no later than fourteen days before the testimony or statement is introduced in a criminal proceeding.

The state would not be allowed to introduce any testimony or statement of an informant unless the materials and information are disclosed to the defendant as required. The material and information the state would be required to request and disclose to the defense would be:

- The informant's complete criminal history and any pending charges or investigations;
- Any benefit the state has provided or may provide to the informant in the present case, including any breach of conditions of the agreement;
- The substance, time, and place of any statement by the defendant to the informant, and by the informant to law enforcement implicating the defendant in the crime charged;
- The names of all persons present when the defendant's statement was given to the informant;
- Whether the informant has at any time modified or recanted his or her testimony or statement, and if so, the nature of and circumstances surrounding the modification or recantation and the persons present;
- Other cases in which the informant offered to provide information or testify for the state in exchange for a benefit;
- Other cases in which the informant testified in exchange for a benefit or in which the informant received any benefit in exchange for his or her testimony;
- The relationship between the defendant and the informant, including time incarcerated in the same custodial section of a jail or prison;
- All corroborating evidence of the informant's testimony or statement implicating the defendant in the crime charged; and
- Any other material or information in the possession, custody, or control of the state that bears on the credibility or reliability of the informant or the informant's statement.

The bill would provide that if the state fails to disclose the materials and information, the court must order the state to immediately disclose the materials and information. In addition, the court

would be allowed to grant a continuance, preclude the informant from testifying or the statement from being introduced, dismiss the action, or enter another order that that court deems just.

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

It is unknown how courts would know or determine if the state (prosecutor) did not adequately disclose required materials and information. Thus, it is assumed that at least a brief inquiry at trial would be needed. It is further unknown how often this might occur.

II.B - Cash Receipt Impact

None.

II.C – Expenditures

Indeterminate, but could be significant fiscal impact depending on how often this situation might occur. It is estimated that a brief inquiry at trial might require twenty minutes of judicial time.

There is no data available to estimate the fiscal impact of this bill. However, it is possible (depending on how often an inquiry at trial might occur) that impact could exceed \$50,000 per year. The \$50,000 expenditure level represents approximately 90 hours (0.08 FTE) of superior court judicial officer time annually cumulative for all superior courts in the state with associated support staff and operational costs. If inquiries were required at all criminal proceedings, this would exceed the \$50,000 per year threshold.