

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5904 P S SB	<b>Title:</b> Convicted persons	<b>Agency:</b> 055-Administrative Office of the Courts
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

**Non-zero but indeterminate cost. Please see discussion.**

### Estimated Expenditures from:

STATE	FY 2018	FY 2019	2017-19	2019-21	2021-23
State FTE Staff Years	.1	.1	.1	.1	.1
<b>Account</b>					
General Fund-State 001-1	23,694	23,694	47,388	47,388	47,388
State Subtotal \$	23,694	23,694	47,388	47,388	47,388
COUNTY	FY 2018	FY 2019	2017-19	2019-21	2021-23
County FTE Staff Years	.7	.6	.6	.7	.7
<b>Account</b>					
Local - Counties	58,814	58,814	117,628	117,628	117,628
Counties Subtotal \$	58,814	58,814	117,628	117,628	117,628
CITY	FY 2018	FY 2019	2017-19	2019-21	2021-23
City FTE Staff Years	(.1)	(.1)	(.1)	(.1)	(.1)
<b>Account</b>					
Local - Cities	(7,905)	(7,905)	(15,810)	(15,810)	(15,810)
Cities Subtotal \$	(7,905)	(7,905)	(15,810)	(15,810)	(15,810)
Local Subtotal \$	50,909	50,909	101,818	101,818	101,818
Total Estimated Expenditures \$	74,603	74,603	149,206	149,206	149,206

*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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## Part II: Narrative Explanation

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

The change in the substitute bill that affects the judicial branch is that Section XII was removed so Section XIII becomes XII.

Section 1201 would amend RCW 9A.36.041 to say that assault in the fourth degree, where domestic violence was pleaded and proven after the effective date of this section, is a class C felony if the person has two or more adult convictions within ten years for any of the following offenses where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after the effective date of this section: (a) repetitive domestic violence offense as defined in RCW 9.94A.030; (b) crime of harassment as defined by RCW 9A.46.060; (c) assault in the third degree; (d) assault in the second degree; (e) assault in the first degree; or (f) an out-of-state comparable offense.

Section 1202 would amend RCW 9A.94A.525 by including the following additional point calculation (b) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after the effective date of this section, for any of the following offenses: Assault of a child in the first degree, RCW 9A.36.120; Assault of a child in the second degree, RCW 9A.36.130; Assault of a child in the third degree, RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW 9A.42.020; or Criminal Mistreatment in the second degree, RCW 9A.42.030.

Section 1206 would require the Administrative Office of the Courts through the Washington State Gender and Justice Commission, to convene a work group to address the issue of domestic violence perpetrator treatment.

Section 1207 would require the Administrative Office of the Courts through the Washington State Gender and Justice Commission, to convene a work group to study how and when risk assessment can best be used to improve the response to domestic violence offenders and victims and find effective strategies to reduce domestic violence homicides, serious injuries and recidivism that are the result of domestic violence incidents in Washington state.

Original bill:

Sections 301 and 302 would amend RCW 46.61.502 and RCW 46.61.504 to reduce the number of prior violations allowed for DUI or physical control from four to three within ten years to be charged with a class C felony.

Section 303 would amend RCW 46.61.5055 to reduce the number of prior violations allowed for DUI or physical control from three to two within seven years that would incur additional penalties.

Section 304 would amend RCW 46.61.5054 to add an additional fifty dollars to the two hundred dollar fee assessed as a result of an arrest for violating RCWs 46.61.502, 46.61.504, 46.631.520 or 46.61.522. The additional fee must be distributed to the highway safety fund to be used solely for funding Washington traffic safety commission grants to organizations within counties targeted for programs to reduce driving under the influence of alcohol or drugs.

Section 1001 would amend RCW 46.20.342 to change a DWLS 3 to a traffic infraction.

Section 1301 would amend RCW 9A.36.041 to say that assault in the fourth degree, where domestic violence was pleaded and proven after the effective date of this section, is a class C felony if the person has two or more adult convictions within ten years for any of the following offenses where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after the effective date of this section: (a) repetitive domestic violence offense as defined in RCW 9.94A.030; (b) crime of harassment as defined by RCW 9A.46.060; (c) assault in the third degree; (d) assault in the second degree; (e) assault in the first degree; or (f) an out-of-state comparable offense.

Section 1302 would amend RCW 9A.94A.525 by including the following additional point calculation (b) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after the effective date of this section, for any of the following offenses: Assault of a child in the first degree, RCW 9A.36.120; Assault of a child in the second degree, RCW 9A.36.130; Assault of a child in the third degree, RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW 9A.42.020; or Criminal Mistreatment in the second degree, RCW 9A.42.030.

Section 1306 would require the Administrative Office of the Courts through the Washington State Gender and Justice Commission, to convene a work group to address the issue of domestic violence perpetrator treatment.

Section 1307 would require the Administrative Office of the Courts through the Washington State Gender and Justice Commission, to convene a work group to study how and when risk assessment can best be used to improve the response to domestic violence offenders and victims and find effective strategies to reduce domestic violence homicides, serious injuries and recidivism that are the result of domestic violence incidents in Washington state.

## II. B - Cash Receipts Impact

Sections 301-304:

For the purposes of this judicial impact note, over three years, an average of 20,099 cases would have been eligible for the additional \$50 charge. The maximum potential revenue would be \$1,004,950. However, not all DUI fees are paid. For purposes of this judicial impact note a 78% collection rate (based on traffic infraction data) is used. Therefore, the potential additional revenue that would be collected is \$783,861 ( $\$1,004,950 \times 78\%$ ).

Because the fine amounts for felony crimes are higher than gross misdemeanor crimes, there is the potential for an increase in revenue. The bill would raise the applicable penalties from a maximum of \$5,000 to a maximum \$10,000.

For RCW 46.61.502 and 46.61.504, the number of third violations recorded was 192 in 2016. These were charged as gross misdemeanors but would be class C felonies under the changes in the bill. The potential increase in fines could be calculated as the number of violations that would qualify for class C felonies multiplied by the difference in the maximum penalties (\$5,000). This would be a potential increase of \$960,000. However, the maximum fine is not always ordered and fines are not always paid in full and can take several years to pay. Judicial information system data for felony fine payment shows that in the first year less than two percent of fines are paid and in the second year this increases to 5.5 percent. If the total amount was ordered and paid using a payment rate of 2%, the potential maximum revenue would be \$19,200.

Section 1001:

There would be a potential reduction to revenue based on the assumption there will be fewer driving while license suspended 3rd degree (DWLS3) per RCW 46.20.342(1)(c). Many people charged with DWLS3 that resolve their cases have only one failure to appear (FTA). Because all DWLS3 cases are not charged under the exact reason why they are suspended, there is no way to estimate the potential reduction in revenue.

## II. C - Expenditures

For Sections 301-304: Court expenditures will be impacted in two ways, an increase in trial rate and associated costs and a transfer of cases from district and municipal courts to county superior courts. Superior courts hear felony cases while misdemeanor DUI and control cases are heard in courts of limited jurisdiction (district and municipal). There will be a transfer of all fourth offenses (three priors) to superior courts for RCW 46.61.502 and RCW 46.61.504. Caseload data for 2015 shows that 30 percent of misdemeanor DUI and control cases were heard in municipal courts and the remainder in district court.

Judicial Information System data shows an expected change in 192 cases from gross misdemeanor to felony per year for RCW 46.61.52 and RCW 46.61.54. Using 192 cases and 30 percent municipal processing, municipal courts would experience a reduction of 58 cases per year. District courts would see a reduction of 134 cases per year and superior courts would see an increased caseload of 192 cases.

Reduced expenditures for municipal courts statewide is estimated at \$7,905 per year for reduced judicial officer time and support staff time. This equates to a reduction of .01 judicial officer and .08 municipal staff FTE spread through all the cities. Reduced district court expenditures are estimated at \$41,696 per year for reduced judicial officer time and support staff time. This equates to a reduction of .06 for judicial officers and .48 district court staff FTE spread through all the counties.

The 192 new felony cases heard at superior courts is expected to increase expenditures for judicial officers and support staff by \$123,844 (\$23,694 for the state and \$100,151 for counties) per year. This equates to .19 of a judicial officer, 0.47 superior court staff and 0.62 clerk staff FTE spread through all the counties.

It is estimated that it would take 83 hours of work on the judicial information systems (JIS) for a total cost of \$4,399.

For Sections 1201-1207:

The Administrative Office of the Courts assumes potential judicial impact with the amendment to RCW 9.94A.525. The change could increase the amount of time needed for sentencing hearings. The amount of additional hearing time for RCW 9A.36.12, RCW 9A.36.130, RCW 9A.36.140, RCW 9A.42.020 or RCW 9A.42.030 is not expected to be significant. The annual average number of

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cases involving these RCW is 124 per year over a three year period.

The potential judicial impact with the amendment to RCW 9.94A.525 could increase the amount of time needed for sentencing hearings for violations to RCW 9A.36.041 and RCW 9.94A.030. The average number of cases for 2014, 2015 and 2016 was 2,157 per year for superior court and 17,213 for district and municipal courts. The AOC assumes that if more points were added for a second conviction, there would be a request for more trials.

There is insufficient data to estimate how many offenders would request a trial because of the legislation. However, using the standard time of two days for a trial, if only a small number of the offenders requested a trial, the statewide cost to the courts would be in excess of \$50,000.

Sec. 1206 and 1207 require the Gender & Justice Commission to convene two workgroups related to domestic violence risk assessment and perpetrator treatment. The workgroups must operate within existing funds. The commission cannot convene the groups and complete associated tasks within existing funds and staffing with the deadline that is given. There would be the need for one FTE at a range 58. In addition, funds would be required for travel. Salaries \$68,000, Benefits \$11,900, Travel \$12,000, Goods and Services \$10,000 and Equipment \$4,000. The total cost for one year would be \$105,900. These costs are not reflected in the grid because the bill states the work must be completed within existing resources. However, there is the need for a staff person.

### Part III: Expenditure Detail

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

<i>State</i>	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	.1	.1	.1	.1	.1
Salaries and Wages	15,691	15,691	31,382	31,382	31,382
Employee Benefits	8,003	8,003	16,006	16,006	16,006
Professional Service Contracts					
Goods and Other Services					
Travel					
Capital Outlays					
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements					
<b>Total \$</b>	23,694	23,694	47,388	47,388	47,388

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

<i>County</i>	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	.7	.6	.6	.7	.7
Salaries and Benefits	37,856	37,856	75,712	75,712	75,712
Capital					
Other	20,958	20,958	41,916	41,916	41,916
<b>Total \$</b>	58,814	58,814	117,628	117,628	117,628

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

<i>City</i>	<b>FY 2018</b>	<b>FY 2019</b>	<b>2017-19</b>	<b>2019-21</b>	<b>2021-23</b>
FTE Staff Years	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
Salaries and Benefits	(6,505)	(6,505)	(13,010)	(13,010)	(13,010)
Capital					
Other	(1,400)	(1,400)	(2,800)	(2,800)	(2,800)
<b>Total \$</b>	<b>(7,905)</b>	<b>(7,905)</b>	<b>(15,810)</b>	<b>(15,810)</b>	<b>(15,810)</b>

**III. D - FTE Detail**

<b>Job Classification</b>	<b>Salary</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>2017-19</b>	<b>2019-21</b>	<b>2021-23</b>
Clerk Staff		0.6	0.6	0.6	0.6	0.6
District Court Judge	157,933	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
District Court Staff		(0.5)	(0.5)	(0.5)	(0.5)	(0.5)
Municipal Court Judge		0.0	0.0	0.0	0.0	0.0
Municipal Court Staff		(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
Superior Court Judge	331,740	0.2	0.2	0.2	0.2	0.2
Superior Court Staff		0.5	0.5	0.5	0.5	0.5
<b>Total FTE's</b>	<b>489,673</b>	<b>0.7</b>	<b>0.6</b>	<b>0.7</b>	<b>0.7</b>	<b>0.7</b>

**Part IV: Capital Budget Impact**