

JUDICIAL IMPACT FISCAL NOTE

Bill Number: 2567 PSHB	Title: Courts/Arrests	Agency: 055 – Administrative Office of the Courts (AOC)
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Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
Total:					

Estimated Expenditures from:

STATE	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE – Staff Years					
Account					
General Fund – State (001-1)					
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.

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Part II: Narrative Explanation

This bill would prohibit civil arrests at or near court facilities in the state, unless certain specified conditions apply. The bill would prohibit judges, court staff, court security personnel, and prosecutor's office staff from inquiring or collecting immigration or citizenship status information. The bill would prohibit judges, court staff, court security personnel, and prosecutor's office staff from disclosing nonpublic personal information about an individual to immigration authorities.

The bill would establish court processes in the event of state or federal law enforcement action at court facilities, including various reporting requirements, and would require the Administrative Office of the Courts (AOC) to publish collected information on a quarterly basis.

This bill differs from HB 2567:

- Would remove immigration or citizenship status from the definition of "nonpublic available personal information to comply with federal law";
- Would further clarify that any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government is not included in the definition of "state law enforcement agency";
- Would remove references to court security personnel in provisions related to law enforcement action information collection, as well as provisions related to the delivery of a court order authorizing a civil arrest to a judicial officer;
- Would exempt state and federal law enforcement agents participating in a proceeding from law enforcement action information collection requirements; and
- Would require the Administrative Office of the Courts (AOC) to develop a standard form for law enforcement action information collection no later than July 1, 2020, and would require quarterly reporting of the collected information by the AOC beginning October 1, 2020.

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

Section 3 – Would amend RCW 2.28 to prohibit judges, court staff, court security personnel, and the prosecutor's office staff from inquiring into an individual's immigration or citizenship status except as necessary to adjudicate matters before them, nor may they divulge information about an individual's status.

Section 4(1) – Would amend RCW 2.28 requiring court security or other court staff to collect the names of law enforcement and note their activity and compile reports that are then sent to the AOC.

Section 4(2) – Would require the Administrative Office of the Courts (AOC) to develop a standard form to collect the information requirements of Section 4(1). Would provide that the form must be developed no later than July 1, 2020. Would require the AOC to publish a quarterly report of the information collected in Section 4(1) beginning October 1, 2020.

Section 5 – Would prohibit civil arrest at court facilities.

Sections 6, 7, and 8 – Would apply this act to the Supreme Court, Courts of Appeal, superior courts, district courts, and municipal courts.

Other than as specifically noted in Section 4 the bill does not include an effective date, so it is assumed to be effective ninety days *sine die*.

II.B - Cash Receipt Impact

None.

II.C – Expenditures

Indeterminate, but expected to be substantial. These costs would primarily be borne by the local courts, and the counties and municipalities that provide funding. Noteworthy is the fact the vast majority of the approximately 230 court locations throughout the state of Washington do not have assigned security personnel to perform the duties outlined in Section 4. For example, in a recent survey of court facilities, data from 109 courts that do not have entry screening at all public entrances, only 18 courts (16%) reported there is at least one security or law enforcement officer assigned to the building entrance at all times. Collecting data upon entry will be problematic in these court facilities.

This bill would add new sections to RCW 2.28, 3.02 and 35.20 to mitigate or eliminate civil immigration arrests in and around courthouses, which impede access to courts and administration of justice.

The bill would prohibit judges, court staff, security personnel, prosecutors and prosecutor personnel from inquiry or collection of information regarding place of birth, immigration or citizenship status unless it is directly connected to a criminal law violation, “provided that a judge may make such inquiries as are necessary to adjudicate matters within their jurisdiction.”

The court may enter orders limiting disclosure of such information. The bill would prohibit the passing over of any such non-publicly available information to federal immigration authorities, and would prohibit notifying them of any individuals of interest being present in court, or in the facility.

Section 4 would require all courthouse security personnel to collect the information on every on-duty state or federal law enforcement officer and file a report for each action taken in a court facility, and to inform the presiding judge or designee if a law enforcement officer is present in the court facility with the intent of taking an individual into custody. Information will be sent to a supervisor, court clerk or the court administrator and will be public record except as to the identifying information of the individual who was the target. Courts are required to transmit this information to AOC on a monthly basis. As stated previously, the vast majority of the approximately 230 court locations throughout the state of Washington do not have assigned security personnel to perform the duties outlined in this section. In a recent survey of court facilities, data from 109 courts that do not have entry screening at all public entrances, only 18 courts (16%) reported there is at least one security or law enforcement officer assigned to the building entrance at all times. Collecting data upon entry will be problematic in these court facilities. The AOC would be required to develop a standard form to manage such information and publish it on a quarterly basis.

Section 5 would provide that no person shall be subject to arrest while travelling to or from a courthouse facility (within one mile radius only) with a few exceptions such as pursuant to a court order, necessary for safety of public or court staff, or when it would otherwise be appropriate to arrest without a warrant. Law enforcement would be required to provide designated court staff with any documentation demonstrating that there is a court order authorizing the arrest. This information would also be presented to the presiding judge for review prior to the arrest. Sections 2 through 5 would apply to all court levels in the state.

This bill would have a significant fiscal impact for the courts, counties and AOC. Court security personnel in larger counties will likely spend significant additional time documenting each law

enforcement officer who enters the courthouse and expanded staffing would likely be required. If law enforcement is authorized to use non-public entrances those would likely need to be covered. Notification of the presiding judge and requiring the presiding judge to review any federal warrant would likely present logistical difficulties depending on the size of the county, number of judicial officers and calendar schedules. Enforcement of the one-mile travel zone surrounding the courthouse may be impossible for the courts to enforce as the individual may not have an open superior court case, there is no mechanism to alert the court and it is unclear what action the court would be able to take if this information was presented and an individual was already taken into custody. AOC costs would be associated with form and report development. Potential impacts on dockets, scheduling, evidence gathering and admission.