

# Judicial Impact Fiscal Note

Revised

<b>Bill Number:</b> 1951 HB	<b>Title:</b> Algorithmic discrimination	<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.

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OFM Review:	Phone:	Date:

191,988.00

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## Part II: Narrative Explanation

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

This bill would add a new chapter to Title 19 RCW relating to promoting ethical artificial intelligence by protecting against algorithmic discrimination.

Section 1 of the bill defines terms including “deployer” which includes all "state or local government agencies". The definition does not explicitly exempt courts. For the purposes of this fiscal note, courts are assumed to be “deployers”. It also defines “automated decision tool” as a system or service that uses artificial intelligence and has been specifically developed and marketed to, or specifically modified to, make, or be a controlling factor in making, consequential decisions.

Section 2 of the bill requires by January 1, 2025, and annually thereafter, that deployers of an automated decision tool complete and document an impact assessment for any automated decision tool the deployer uses or develops. The impact assessment must be repeated at the time of any significant update.

Section 6 of the bill deems violations an unfair practice under state anti-discrimination law (chapter 49.60 RCW) entitling victims to bring civil actions and to file complaints with human rights commission.

### II. B - Cash Receipts Impact

None

### II. C - Expenditures

If each court would be required to conduct an impact assessment and validation for each and every automated decision tool used by the court, the court would need to hire skilled staff to conduct the initial and annual impact assessments, as well as assessments every time a tool is updated (Section 2 requirement).

Below are options or scenarios that assume is this work would need to be done for each and every court under the current definition of "deployer". That could include as many as 179 state trial courts each needing to hire a skilled staff member to conduct assessments and validations of tools used in their court, even if another court in the same county or another court within the state have approved the tool. Different courts could have different analyses of the same tool because of communities’ differing make-up of protected classes. Alternatively or in addition, AOC could also need additional staff to provide consulting assistance to the courts as they conduct this work.

For the purposes of this fiscal note, the costs are shown beginning with the effective date of the bill, January 2025. However, it is unlikely courts or the state would be able to staff up and begin the assessments and validation work by the deadline required in the bill.

#### IMPACT TO THE ADMINISTRATIVE OFFICE OF THE COURTS AND SUPERIOR, DISTRICT AND MUNICIPAL COURTS

The fiscal impact of this bill is indeterminate, but likely significant. Challenges as to estimating its cost impact include:

1. The extent to which each court makes use of algorithmic tools in their decision making. It is known to vary from court to court.
2. Given the detailed definition of “algorithmic discrimination” found in the bill, and the extensive reporting requirements, it is difficult to estimate the amount of skilled staff time that would be required to “complete and document” the required impact assessment.
3. It is also unknown the extent to which the AOC could offer support and technical assistance to courts undertaking these complex assessments.

Given these unknowns, a range of costs is provided below.

AOC Technical Support and Assistance to Courts

Possible Cost: \$407,600 per year ongoing

Research staff would look at the information used by the tools, how the information is used, and the impact of using the information in terms of unequal impact across demographic groups. This may include local or statewide assessments, including evaluations and site-based validations, of particular tools. Additionally, the staff would communicate to the court community about the operation and impact of algorithms and artificial intelligence.

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Senior Research Associate. Beginning July 1, 2024 and ongoing, AOC would require salary, benefits, and associated standard costs for 2.0 FTE focused on training.

Explanation of standard costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 30.59% of salaries.

Goods and Services are the agency average of \$3,600 per direct program FTE.

Travel is the agency average of \$2,000 per direct program FTE.

Ongoing Equipment is the agency average of \$1,800 per direct program FTE.

One-time IT Equipment is \$4,800 for the first fiscal year per direct program FTE.

Agency Indirect is calculated at a rate of 25.86% of direct program salaries and benefits.

Superior Court Estimate in all 39 counties, ongoing

Low: 39 courts X \$150,000 salary\* X 0.08 FTE = \$468,000

High: 39 courts X \$150,000 salary\* X 0.50 FTE = \$2,925,000

\*Estimated salary and benefits for skilled staff to conduct annual assessments

Courts of Limited Jurisdiction Estimate in all 140 district and municipal courts, ongoing

Low: 140 courts X \$150,000 salary\* X 0.08 FTE = \$1,680,000

High: 140 courts X \$150,000 salary\* X 0.50 FTE = \$10,500,000

\*Estimated salary and benefits for skilled staff to conduct annual assessments

#### CASELOADS

The Office of the Attorney General Civil Rights Division estimates one matter per year. Based on that, this judicial impact note assumes no significant fiscal impact due to additional case filings.

### 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

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**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

None