

Judicial Impact Fiscal Note

Bill Number: 2001 2S HB	Title: Sentence modification	Agency: 055-Administrative Office of the Courts
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

STATE	FY 2024	FY 2025	2023-25	2025-27	2027-29
State FTE Staff Years					
Account					
General Fund-State 001-1		595,000	595,000		
State Subtotal \$		595,000	595,000		
COUNTY	FY 2024	FY 2025	2023-25	2025-27	2027-29
County FTE Staff Years					
Account					
Local - Counties		2,773,000	2,773,000		
Counties Subtotal \$		2,773,000	2,773,000		
CITY	FY 2024	FY 2025	2023-25	2025-27	2027-29
City FTE Staff Years					
Account					
Local - Cities					
Cities Subtotal \$					

In addition to the estimates above, there are additional indeterminate costs 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:

194,400.00

Request # 205-1

Part II: Narrative Explanation

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

The bill would amend and add to Chapter 9.94A RCW (Sentencing Reform Act of 1981) allowing individuals who have a sentence of partial or total confinement at the time they committed a crime were 17 or 18 or have consent of the prosecuting attorney to petition the court for a modification of sentence.

Section 3 outlines the eligibility and contents of the petition to modify a sentence. The court may grant modification if there is a finding that the original sentence no longer advances the interest of justice. A list of factors that the court may consider in determining a modification should be granted is provided.

II. B - Cash Receipts Impact

None

II. C - Expenditures

IMPACT TO ADMINISTRATIVE OFFICE OF THE COURTS

This bill would have no fiscal impact to the Administrative Office of the Courts.

INDETERMINATE IMPACT TO THE COURTS, UPDATED WITH CASE INFORMATION FROM THE SUPERIOR COURT JUDGES' ASSOCIATION AND THE DEPARTMENT OF CORRECTIONS.

The second substitute bill would result in an indeterminate, but likely significant, increase in superior court workload. The bill mandates any person, with the exception of those convicted of Aggravated Murder I, or a persistent offender with a term of Life Without Parole, under a term of partial or total confinement by the Department of Corrections (DOC) for a felony conviction may petition the sentencing court for a modification of sentence if the original sentence no long serves the interests of justice and the person meets any of the following criteria:

- Served at least 10 years for an offense committed at age 18 or older;
- Served at least 7 years for an offense committed at age 17 or younger; or
- Has the prosecuting attorney's consent.

The bill also excludes a defendant waiving their right to petition for resentencing (e.g., in exchange for a lesser sentence as part of a plea) and instead directs that the court "shall" grant a hearing to consider the petition and schedule the hearing within 120 days "upon a substantial showing" that the petitioner meets one of the following criteria:

- Indicated substantial rehabilitation
- Demonstrated a minimal risk of reoffence, which may include medical frailty
- Some significant material fact was not known at the time of conviction.

Courts will be unable to meet the 120-day hearing requirement of this bill. For comparison, in the 34 months since the Blake decision, 2,253 Blake hearings have been heard remotely, from courts statewide, at DOC facilities. Conducting a similar number of hearings within 120 days from filing, as required by the substitute bill, is not feasible, given court capacity and current shortages of defense attorneys and prosecuting attorneys.

DOC provided the number of incarcerated individuals in DOC's jurisdiction who are serving a felony sentence that falls under the criteria in the bill.

- 2,237 incarcerated individuals who are serving a sentence for a felony committed at 18 years of age or older and have served at least 10 years of their sentence.
- 122 incarcerated individuals who are serving a sentence for a felony committed at 17 years of age or younger and have served at least 7 years of their sentence.

NOTES: Data includes individuals under the department's jurisdiction serving the incarceration portion of their sentence, excluding

194,400.00

Form FN (Rev 1/00)

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escapes.

- 1) Individuals who are out to court or out for medical treatment are included in this data.
- 2) Data reflects prison population as of 01/31/2024 in OMNI.
- 3) This data excludes Aggravated Murder 1.
- 4) This data also excludes any individual that possessed a second or third strike and has a confinement type of Life Without the Possibility of Parole (LWOP.)

As the DOC data shows, the number of individuals, currently incarcerated, who could file these petitions, is estimated to be up to 2,359 (2,237 + 122). It is unknown how many of these cases would be likely to seek resentencing. But these numbers show only part of the potential workload on the courts. As the substitute is written, unsuccessful petitioners may file a new petition three years after the date the previous petition was denied, effectively extending indefinitely the number of times a person could refile and demand a hearing while incarcerated.

Given that the majority of this workload will involve individuals convicted of a Class A felony with a minimum of ten-year prison terms, many of these cases will be complex. We estimate that up to 80% of these hearings will be contested, taking an average of 120 minutes of hearing time. Our total estimated cost to courts and local government for hearing these cases, not including new subsequent petitions from individuals, is:

State: \$595,000 (superior court judges' 50% salary and 100% benefits)
 County: \$2,773,000

All costs are shown in FY 2025. However, the timing is indeterminate. Dates of filing are unknown and, as was explained above, meeting a 120-day hearing requirement is not feasible.

Part III: Expenditure Detail

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

<i>State</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Wages		371,000	371,000		
Employee Benefits		224,000	224,000		
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					
Total \$		595,000	595,000		

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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

<i>County</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Benefits					
Capital					
Other		2,773,000	2,773,000		
Total \$		2,773,000	2,773,000		

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

<i>City</i>	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
Salaries and Benefits					
Capital					
Other					
Total \$					

In addition to the estimates above, there are additional indeterminate costs 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

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