Multiple Agency Fiscal Note Summary

Bill Number: 2644 HB	**Title:** AI-enabled profiling

Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Office of Attorney General	.5	171,000	171,000	.7	259,500	259,500	.2	88,500	88,500
Total $	**0.5**	**171,000**	**171,000**	**0.7**	**259,500**	**259,500**	**0.2**	**88,500**	**88,500**

Local Gov. Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Total $	**0.0**	**0**	**0**	**0.0**	**0**	**0**	**0.0**	**0**	**0**

Estimated Capital Budget Breakout

Prepared by: Gwen Stamey, OFM	**Phone:** (360) 902-9810	**Date Published:** Final 1/31/2020

FNPID: 59265

FNS029 Multi Agency rollup

Judicial Impact Fiscal Note

Bill Number: 2644 HB	**Title:** AI-enabled profiling	**Agency:** 055-Administrative Office of the Courts

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.

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	Yelena Baker	Phone: 360-786-7301	Date: 01/27/2020
Agency Preparation:	Sam Knutson	Phone: 360-704-5528	Date: 01/28/2020
Agency Approval:	Sam Knutson	Phone: 360-704-5528	Date: 01/28/2020
OFM Review:	Gaius Horton	Phone: (360) 902-0608	Date: 01/28/2020

Part II: Narrative Explanation

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

Please see attached Judicial Impact Note (JIN).

II. B - Cash Receipts Impact

II. C - Expenditures

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

Part II: Narrative Explanation

This bill would prohibit operation or installation of equipment that incorporates artificial intelligence (AI) enabled profiling in any public place. The bill would prohibit the use of AI-enabled profiling to make decisions that would produce legal or similar effects.

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

Section 3(1) – Would provide that a person may not operate, install, or commission the operation or installation of equipment incorporating AI-enabled profiling in any place of public resort, accommodation, assemblage, or amusement.

Section 3(2) – Would provide that a person may not use AI-enabled profiling to make decisions that produce legal effects or similarly significant effects concerning consumers.

Section 4 – Would provide that any consumer aggrieved by a violation of this bill would have a right of action in any court against the offending party. A plaintiff prevailing in an action under this bill could recover actual damages, reasonable attorneys' fees and costs, and other relief as appropriate.

There is no effective date provided for this bill, so it is assumed that the bill would be effective 90 days *sine die*.

II.B - Cash Receipt Impact

None.

II.C – Expenditures

Indeterminate, but expected to be minimal. There is no data available to estimate the number of civil cases that would result from this bill.

This bill would create a new civil cause of action. IT system modifications and judicial education would be required. These impacts would be managed within existing resources.

Individual State Agency Fiscal Note

Bill Number: 2644 HB	Title: AI-enabled profiling	Agency: 100-Office of Attorney General

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	0.9	0.5	0.7	0.2
Account					
General Fund-State 001-1	0	171,000	171,000	259,500	88,500
Total $	0	171,000	171,000	259,500	88,500

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

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.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Yelena Baker	Phone: 360-786-7301	Date: 01/27/2020
Agency Preparation:	Michael Shinn	Phone: 360-759-2122	Date: 01/30/2020
Agency Approval:	Edd Giger	Phone: 360-586-2104	Date: 01/30/2020
OFM Review:	Gwen Stamey	Phone: (360) 902-9810	Date: 01/31/2020

Part II: Narrative Explanation

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

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

All sections are new, and create a new chapter in Title 19 RCW.

Section 1 is a findings section, finding that profiling using artificial intelligence to surveil and classify consumers threatens the rights and privileges of Washingtonians.

Section 2 is a definitions section, and defines artificial intelligence-enabled profiling.

Section 3 bars operation or installation of equipment incorporating artificial intelligence-enabled profiling in any place of public accommodation as defined in RCW 49.60.040.

Section 4 makes violations of the chapter unfair business practices under chapter 19.86 RCW. A private cause of action is created, and prevailing plaintiffs are allowed to recover actual damages and statutory damages of not less than $1,000 per violation, attorney fees and costs, and expert witness fees and expenses.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

The Attorney General's Office (AGO) Civil Rights Division (CRD) activities are funded with General Fund-State dollars. No cash receipt impact. There is no client agency to bill for legal services.

AGO Consumer Protection Division (CPR) activities are funded with General Fund-State dollars. No cash receipt impact. There is no client agency to bill for legal services.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Attorney General's Office (AGO) Agency Assumptions:

1. This bill is assumed effective 90 days after the end of the 2020 legislative session.

2. Expenditures associated with the enactment of this bill and identified in this report are assumed to be activities that will be co-litigated by the AGO Civil Rights Division (CRD) and the Consumer Protection Division (CPR). Both divisions are funded with State General Funds.

3. Agency administration support FTEs are included in the tables below, using a Management Analyst 5 as a representative classification.

Assumptions for AGO Consumer Protection Division (CPR) Legal Services:

1. AGO CPR activities are funded with General Fund-State dollars. There is no appropriate client agency to bill

for legal services.

2. CPR assumes most investigations will be for the use of artificial intelligence, rather than installation.

3. CPR assumes two full investigations in both FY 2021 and FY 2022.

4. CPR assumes one full investigation per FY in FY 2023 and FY 2024.

5. CPR assumes investigations will result in court action, but the cases can be resolved on summary judgment with no trial.

6. Litigation Costs:

A. Absolute prohibitions will not require expert review. If expert witnesses are needed, that will increase direct costs by $200,000 per investigation or case. These costs are not included in this request.

B. FY 2021 and FY 2022: $15,000 for depositions and deposition-related costs; $25,000 for e-discovery/Everlaw capacity.

C. FY 2023 and FY 2024: $7,500 for deposition and deposition-related costs; $12,500 for ediscovery/-Everlaw platform storage.

7. CPR assumes the industry will adapt to restrictions and investigations will subside beginning in FY 2025. Legal services necessary are assumed nominal and will be provided with existing resources.

8. Total CPR workload impact:
FY 2021 and FY 2022: 0.25 Assistant Attorney General (AAG), 0.13 Legal Assistant (LA), 0.11 Investigator (INV) and 0.17 Paralegal (PL) at a cost of $141,000 per FY (this includes $40,000 of litigation costs per FY).
FY 2023 and FY 2024: 0.13 AAG, 0.07 LA, 0.06 INV and 0.08 PL at a cost of $71,500 per FY (this includes $20,000 of litigation costs per FY).

9. Total CRD workload impact (co-litigation):
FY 2021 and FY 2022: 0.12 AAG and 0.06 LA at a cost of $30,000 per FY.
FY 2023 and FY 2024: 0.07 AAG at a cost of $17,000 per FY.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
001-1	General Fund	State	0	171,000	171,000	259,500	88,500
		Total $	0	171,000	171,000	259,500	88,500

III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years		0.9	0.5	0.7	0.2
A-Salaries and Wages		85,000	85,000	130,000	45,000
B-Employee Benefits		29,000	29,000	44,000	15,000
C-Professional Service Contracts		15,000	15,000	22,500	7,500
E-Goods and Other Services		40,000	40,000	61,000	21,000
G-Travel		1,000	1,000	1,000	
J-Capital Outlays		1,000	1,000	1,000	
Total $	0	171,000	171,000	259,500	88,500

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Assistant Attorney General-Seattle	110,256		0.4	0.2	0.3	0.1
Legal Assistant 3-Seattle	63,048		0.2	0.1	0.2	0.1
Management Analyst 5	88,644		0.1	0.1	0.1	
Paralegal 2-Seattle	70,608		0.2	0.1	0.1	0.0
Senior Investigator-Seattle	92,652		0.1	0.1	0.1	0.0
Total FTEs			0.9	0.5	0.7	0.2

III. D - Expenditures By Program (optional)

Program	FY 2020	FY 2021	2019-21	2021-23	2023-25
Consumer Protection Division (CPR)		141,000	141,000	212,500	71,500
Civil Rights Division (CRD)		30,000	30,000	47,000	17,000
Total $		171,000	171,000	259,500	88,500

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

Part V: New Rule Making Required