# Multiple Agency Fiscal Note Summary

| **Bill Number:** 2856 HB | **Title:** Facial recog. moratorium |
|---|---|

## 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 | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Office of Attorney General | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Washington State Patrol | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| **Total $** | **0.0** | **0** | **0** | **0.0** | **0** | **0** | **0.0** | **0** | **0** |

| Agency Name | 2019-21 | | | 2021-23 | | | 2023-25 | | |
|---|---|---|---|---|---|---|---|---|---|
| | FTEs | GF-State | Total | FTEs | GF-State | Total | FTEs | GF-State | Total |
| Local Gov. Courts | | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| 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 |
| Washington State Patrol | .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

NONE

FNPID: 59696

FNS029 Multi Agency rollup

| Prepared by: Gaius Horton, OFM | Phone: (360) 902-0608 | Date Published: Final 2/ 6/2020 |
|---|---|---|

# Judicial Impact Fiscal Note

| | | |
|---|---|---|
| **Bill Number:** 2856 HB | **Title:** Facial recog. moratorium | **Agency:** 055-Administrative Office of the Courts |

## Part I: Estimates

☐ **No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Expenditures from:**

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 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: 01/29/2020 |
| Agency Preparation: | Sam Knutson | Phone: 360-704-5528 | Date: 02/03/2020 |
| Agency Approval: | Ramsey Radwan | Phone: 360-357-2406 | Date: 02/03/2020 |
| OFM Review: | Gaius Horton | Phone: (360) 902-0608 | Date: 02/03/2020 |

157,524.00

Request # 2856 HB-1

## 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**

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

NONE

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

NONE

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

NONE

**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 the use of facial recognition technology by state and local government agencies until July 1, 2023. The bill would prohibit the installation or operation of any equipment that incorporates facial recognition in places of public accommodation until July 1, 2023. The bill would create a joint legislative task force on facial recognition to review existing research, document potential threats, and provide recommendations regarding appropriate regulation of facial recognition.

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

Section 5 – Would provide that the Office of the Attorney General (OAG) may bring an action in the name of the state, or as *parens patriae* on behalf of persons residing in the state, to enforce this chapter. Would provide that in any action brought by the OAG would be subject to a civil penalty of one thousand dollars for each violation of this chapter. Would provide that any consumer prevailing in an action under this chapter may recover actual damages.

## 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 filings that may result from this bill.

# Individual State Agency Fiscal Note

| Bill Number: 2856 HB | Title: Facial recog. moratorium | Agency: 100-Office of Attorney General |
|---|---|---|

## Part I: Estimates

[X] **No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**
NONE

**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: 01/29/2020 |
| Agency Preparation: | Amy Flanigan | Phone: 509-456-3123 | Date: 02/04/2020 |
| Agency Approval: | Diana Arens | Phone: 3605869346 | Date: 02/04/2020 |
| OFM Review: | Gwen Stamey | Phone: (360) 902-9810 | Date: 02/04/2020 |

## 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.*

No fiscal impact. This legislation is not expected to generate any costs or savings for the Attorney General's Office (AGO). The AGO completed an analysis for legal services and fiscal impact from the most likely state agencies.

The AGO Agriculture & Health Division (AHD) has reviewed this bill and determined it will not increase or decrease the division's workload in representing the Department of Commerce (COM). COM was assigned this fiscal note request for its role in estimating the impact of bills on local governments. Commerce itself would not be given any new authorities or responsibilities under this bill. Thus, this won't generate any legal work for AHD. Costs are not included in this request.

The AGO Civil Rights Division has reviewed this bill and determined it will not increase or decrease the division's workload in representing the Human Rights Commission (HRC). No enforcement duties are assigned to the AGO or HRC. Any new legal services are assumed to be nominal and costs are not included in this request.

The AGO Consumer Protection Division (CPR) has reviewed this bill and determined it will not increase or decrease the division's workload. This bill imposes a moratorium on the use of facial recognition. CPR assumes that the law will be honored, that enforcement will be minimal if at all, and the moratorium is well publicized. Any potential enforcement would be directed at whether or not the use occurred, rather than whether the use was lawful under the circumstances. Use of facial recognition by public agencies or the courts will not be enforced by CPR under the Consumer Protection Act. New legal services are assumed to be nominal and costs are not included in this request.

The AGO Government Compliance & Enforcement Division (GCE) has reviewed this bill and determined it will not increase or decrease the division's workload in representing the Washington State Patrol (WSP). This bill imposes a moratorium on the use of "facial recognition" technology by state agencies until July 1, 2023. Additionally, it makes such evidence inadmissible in a legal proceeding. GCE's client programs have never relied on evidence derived from this technology, so the provisions of this bill would not have any impact on our work for these client programs. New legal services are assumed to be nominal and costs are not included in this request.

The AGO Licensing & Administrative Law Division (LAL) has reviewed this bill and determined it will not significantly increase the division's workload in representing the Department of Licensing (DOL). DOL's use of facial recognition technology is specifically exempted. However, DOL will likely need legal advice regarding whether this bill impacts the disclosure of facial recognition results to other state or federal agencies and under what circumstances. New legal services are assumed to be nominal and costs are not included in this request.

**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.*

**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.*

# Part III: Expenditure Detail

**III. A - Operating Budget Expenditures**

NONE

**III. B - Expenditures by Object Or Purpose**

NONE

**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*

NONE

**III. D - Expenditures By Program (optional)**

NONE

# 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

# Individual State Agency Fiscal Note

| Bill Number: 2856 HB | Title: Facial recog. moratorium | Agency: 225-Washington State Patrol |
|---|---|---|

## Part I: Estimates

[X] **No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**
NONE

**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: 01/29/2020 |
| Agency Preparation: | Kendra Sanford | Phone: 360-596-4080 | Date: 01/31/2020 |
| Agency Approval: | Walter Hamilton | Phone: 360-596-4046 | Date: 01/31/2020 |
| OFM Review: | Jenna Forty | Phone: (360) 902-0419 | 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.*

There will be no fiscal impact to the Washington State Patrol as we do not currently have facial recognition services and are not planning to implement this technology prior to July 1, 2023.

Section 6 creates a task force on facial recognition technology. The task force will review existing research on facial recognition software, document potential abuses and threats by its use, and recommend appropriate technology regulation. The findings and recommendations will be reported to the governor and appropriate committees by September 30, 2021. The task force will absolve July 1, 2023.

**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.*

None.

**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.*

It is unknown if the WSP will be part of the task force as created in Section 6. If the WSP is asked to be part of the task force, the Chief will be appointed. Assuming the task force meets once a month starting July 2020 thru September 2021 (14 meetings), each meeting lasts one hour each, and the Chief's fiscal year 2021 hourly rate is an estimated $120, then this will be an estimated $1,680. This can be absorbed in current resources.

## Part III: Expenditure Detail

**III. A - Operating Budget Expenditures**

NONE

**III. B - Expenditures by Object Or Purpose**

NONE

**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*

NONE

**III. D - Expenditures By Program (optional)**

NONE

## 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

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

| **Bill Number:** 2856 HB | **Title:** Facial recog. moratorium |
|---|---|

## Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

[X] Cities: Indeterminate costs for jurisdictions to comply with moratorium on facial recognition technology and participate on a task force

[X] Counties: Same as above

[ ] Special Districts:

[ ] Specific jurisdictions only:

[ ] Variance occurs due to:

## Part II: Estimates

[ ] No fiscal impacts.

[ ] Expenditures represent one-time costs:

[ ] Legislation provides local option:

[X] Key variables cannot be estimated with certainty at this time: Changes law enforcement agencies would need to employ to adhere to moratorium on facial recognition technology

**Estimated revenue impacts to:**

**None**

**Estimated expenditure impacts to:**

**Non-zero but indeterminate cost and/or savings. Please see discussion.**

## Part III: Preparation and Approval

| | | |
|---|---|---|
| Fiscal Note Analyst: Alice Zillah | Phone: 360-725-5035 | Date: 02/06/2020 |
| Leg. Committee Contact: Yelena Baker | Phone: 360-786-7301 | Date: 01/29/2020 |
| Agency Approval: Allan Johnson | Phone: 360-725-5033 | Date: 02/06/2020 |
| OFM Review: Gaius Horton | Phone: (360) 902-0608 | Date: 02/06/2020 |

# Part IV: Analysis

## A. SUMMARY OF BILL

*Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.*

Sec. 1 establishes that it is unlawful for any Washington state or local government agency or any official to obtain, retain, request, access, or use any facial recognition technology or any information obtained from or by use of facial recognition. Inadvertent or unintentional receipt, access, or use of any information obtained from facial recognition is not a violation of this chapter, provided that the information was not requested or solicited by a state or local agency or any official, and the information is permanently deleted upon discovery. This section expires July 1, 2023.

Sec. 2 directs that no information obtained from or by use of facial recognition may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority subject to the jurisdiction of the state of Washington. Any person who has been subjected to facial recognition in violation of section 1 of this act, or about whom information has been obtained, retained, accessed, or used in violation of section 1 of this act, may institute proceedings in any court of competent jurisdiction against the state and is entitled to recover actual damages, but not less than statutory damages of $1,000 per violation, whichever is greater. This section expires July 1, 2023.

Sec. 6 establishes a joint legislative task force on facial recognition technology, with one member from law enforcement.

## B. SUMMARY OF EXPENDITURE IMPACTS

*Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.*

The legislation would have indeterminate cost impacts for cities and counties.

Facial recognition services is a broad category that can apply to almost all cameras in use by law enforcement, as well as to Facebook and smartphone use, according to the Washington Association of Sheriffs and Police Chiefs. If the legislation is interpreted as applying to this broad set of activities, it could result in significant changes in the way local governments conduct business.

Additionally, the bill creates a joint legislative task force on facial recognition technology, with one member from law enforcement. The location and frequency of the task force meetings is not known at this time.

## C. SUMMARY OF REVENUE IMPACTS

*Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.*

The legislation would have no revenue impacts for local governments.

SOURCES:
Washington Association of Sheriffs and Police Chiefs