



## Fiscal Note

### Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

## HB 26-1258: CHANGES TO PRACTICES RELATING TO DEATH

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**Prime Sponsors:**

Rep. Soper; Titone  
Sen. Roberts; Pelton R.

**Fiscal Analyst:**

Colin Gaiser, 303-866-2677  
colin.gaiser@coleg.gov

**Published for:** Senate Business, Labor & Tech.**Drafting number:** LLS 26-0405**Version:** First Revised Note**Date:** March 26, 2026**Fiscal note status:** The revised fiscal note reflects the reengrossed bill.

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### Summary Information

**Overview.** The bill makes changes to certain penalties, definitions, and requirements regarding death-care related practices.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Revenue
- State Expenditures
- Local Government

**Appropriations.** No appropriation is required.

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**Table 1**  
**State Fiscal Impacts**

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
State Revenue	\$0	\$0	\$0
State Expenditures (General Fund)	\$0	\$0	\$46,354
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE	0.0 FTE

## Summary of Legislation

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The bill makes changes to laws regarding death-care related practices, which are regulated by the Office of Funeral Home and Mortuary Science Services in the Department of Regulatory Agencies (DORA). Among other provisions, the bill:

- establishes and clarifies certain definitions related to the Mortuary Science Code, including adding cremationists and natural reductionists throughout the code;
- requires a funeral establishment to have a physical location, and adds that a broker of funeral services does not qualify for registration as a funeral establishment;
- applies existing class 1 misdemeanor penalties for violations of the mortuary science code to cremationists and natural reductionists and creates new violations subject to the misdemeanor, including:
  - committing acts that do not meet generally accepted mortuary science standards;
  - failing to include the license number of a designee in contracts;
  - failing to properly supervise an associate;
  - cremating human remains in an unregistered facility;
  - refusing to accept human remains that are not in a casket; and,
  - allowing a cremationist or licensed individual to perform services beyond their competency, training, or education;
- makes the abuse of a corpse a class 5 felony, which is a class 6 felony under current law, and applies the penalty to specific means of transporting, treating, storing, or disposing of a body or human remains;
- allows a body to be cremated or have the process of natural reduction begin within 60 days after death, rather than the 30 days under current law, and modifies the amount of time after which cremated or naturally reduced remains may be disposed of;
- modifies and expands some of the powers and duties of the Division of Professions and Occupations concerning the regulation of death-care related professions, licensure, and nontransplant tissue banks;
- creates a new license type—license by endorsement—for licensed funeral directors, cremationists, mortuary science practitioners, embalmers, or natural reductionists that satisfy the requirements of the Occupational Credential Portability Program; and,
- extends the regulation of persons practicing cremation and mortuary science by two years, from 2029 to 2031.

## **Comparable Crime Analysis**

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Legislative Council Staff is required to include certain analysis in the fiscal note for any bill that creates a new crime, or that either reclassifies or creates a new factual basis for an existing crime. This section identifies comparable crimes and discusses assumptions on future conviction rates resulting from the bill.

### **Prior Conviction Data**

The bill expands the factual bases for a class 1 misdemeanor, reclassifies a class 6 felony as a class 5 felony, and expands the factual bases for that felony, as described below.

#### **Violation of Mortuary Science Code**

This bill adds new factual bases to an existing class 1 misdemeanor offense related to committing certain acts that do not meet accepted mortuary science standards. To form an estimate on the prevalence of these crimes, the fiscal note analyzed the existing offense of violating the mortuary science code as a comparable crime. From FY 2022-23 to FY 2024-25, 2 individuals were convicted and sentenced for this existing offense. Of the persons convicted, 1 was male and 1 was female. Demographically, both were White.

#### **Abuse of a Corpse**

This bill creates new factual bases for the existing offense of abuse of a corpse, a class 6 felony, and reclassifies the crime as a class 5 felony. From FY 2022-23 to FY 2024-25, 7 were convicted and sentenced for this offense, or about 2 per year. Of the persons convicted, all 7 were male. Demographically, 6 were White and 1 was Black/African American.

### **Assumptions**

The fiscal note assumes that increasing the classification for abuse of a corpse will increase the amount of time an individual spends in the Department of Corrections (CDOC). Based on Judicial sentencing data, over the last 3 years, 4 individuals received a CDOC sentence, with 3 individuals having abuse of corpse as their highest charge with an associated CDOC sentence. Therefore, it is assumed 1 person per year who is convicted for abuse of a corpse will be sentenced to the DOC at a higher penalty level. The fiscal note reflects the difference in cost between a class 6 and class 5 felony length of stay, though actual sentencing and costs may vary from this estimate. The average CDOC length of stay for a class 5 felony is 10 months longer than a class 6 felony, while the average parole period is 9 months longer.

## CDOC Costs in Fiscal Notes

Due to prison capacity issues, fiscal notes for the 2026 session assume that any changes to the prison population under a bill will occur in state prisons operated by CDOC. Legislative Council Staff (LCS) estimates state beds cost of \$186.67 per day per bed, compared to the private prison reimbursement rate of \$66.52 per day per bed. Costs are calculated using the estimated state prison daily rate multiplied by the average length of stay, as determined by the Division of Criminal Justice, for the affected crime classification. Costs are estimates only; actual appropriations are determined through the annual budget process based on the prison population forecast.

Visit the [Fiscal Notes website](#) for more information about criminal justice costs in fiscal notes.

## State Revenue

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The bill may increase state revenue from licensing fees and from criminal fines and court fees. These sources of revenue are subject to TABOR.

### Licensing Fees

The bill may increase state revenue from licensing fees to the extent licenses by endorsements are pursued. Because this license is expected to be sought by a minimal number of professionals, any impact is expected to be minimal. Fee amounts will be set administratively by DORA based on cash fund balance, program costs, and the number of licenses applying.

### Criminal Fines and Court Fees

By modifying an existing felony offense, the bill will increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2026-27, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for a class 5 felony is between \$1,000 and \$100,000. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined.

## State Expenditures

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Beginning in FY 2026-27, the bill increases workload in DORA and the Judicial Department. Starting in FY 2028-29, the bill increases costs in the CDOC, paid from the General Fund.

**Department of Regulatory Agencies**

DORA will have a minimal increase in workload to implement the bill, including the creation of a new license type. The Office of Funeral Home and Mortuary Science Services may engage in rulemaking and provide information and outreach to licensees. No change in appropriations is required.

**Judicial Department**

This bill will minimally increase workload for the trial courts in the Judicial Department to process cases with a higher penalty level as well as potential additional misdemeanor filings. Workload may also increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Counsel.

**Department of Corrections**

Legislative Council Staff is required to analyze long-term costs for prison capital construction, operations, and parole for any bill that potentially increases periods of imprisonment in the Department of Corrections.

**DOC Prison and Parole Costs (Five-year Fiscal Impact)**

Based on the assumptions provided in the Comparable Crime Analysis section, this bill increases prison operating costs for the DOC by a total of about \$171,000 over the five-year period beginning in FY 2026-27. The fiscal note assumes no prison operating impacts will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. Because the fiscal note shows only the change in an existing felony level, the impacts are delayed a further year. Once an offender is released from prison, they are assigned to parole. Table 2 shows the estimated cost of the bill over the next five fiscal years.

**Table 2  
 State Expenditures  
 Prison and Parole Operating Costs**

<b>Fiscal Year</b>	<b>Prison ADP Impact</b>	<b>Prison Cost</b>	<b>Parole ADP Impact</b>	<b>Parole Cost</b>	<b>Total Cost</b>
FY 2026-27	0.0	\$0	0.00	\$0	\$0
FY 2027-28	0.0	\$0	0.00	\$0	\$0
FY 2028-29	0.8	\$52,861	-0.78	-\$6,507	\$46,354
FY 2029-30	0.9	\$58,936	0.12	\$972	\$59,908
FY 2030-31	0.9	\$58,936	0.72	\$6,046	\$64,983
<b>Total Five-Year Cost</b>		<b>\$170,734</b>		<b>\$510</b>	<b>\$171,244</b>

ADP=Average Daily Population.

## DOC Capital Construction Costs

In addition to the five-year operating and parole impacts discussed above, state law requires that the General Assembly consider increased capital construction costs for the DOC to house additional inmates. Based on a 2024 survey solicited by DOC on the cost to build a medium security facility, capital construction costs of \$412,500 would be required to increase prison bed space in line with the estimated increase in prison population under this bill. If the General Assembly determines that additional prison bed space is needed, this bill should include a transfer of General Fund to the Capital Construction Fund, to be reappropriated to the Corrections Expansion Reserve Fund. Money in the Corrections Expansion Reserve Fund is available for future DOC construction projects, which would be identified and funded through the annual budget process based on the state's overall prison needs.

## Local Government

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Similar to the state, the bill may increase workload for district attorneys to prosecute the modified offenses under the bill. To the extent cases are filed in Denver, workload will increase for Denver County Court.

## Effective Date

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The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to offenses committed; license and registration applications filed; certificates of death initiated, completed, responded to, or filed; and contracts entered into or renewed on or after the applicable effective date of this act.

## State and Local Government Contacts

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Corrections	Local Affairs
District Attorneys	Public Health and Environment
Judicial	Regulatory Agencies
Labor	Sheriffs

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).