



## Fiscal Note

### Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

## HB 26-1250: PROCEDURES RELATED TO CIVIL ASSET FORFEITURE

**Prime Sponsors:**

Rep. DeGraaf; Bacon

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**Fiscal note status:** The fiscal note reflects the introduced bill.

### Summary Information

**Overview.** The bill requires that defendants in forfeiture proceedings be appointed legal counsel upon request and creates a cash fund to pay for attorney fees. It also changes the distribution of forfeiture proceeds.

**Types of impacts.** The bill is projected to affect the following areas beginning in FY 2026-27:

- State Revenue
- State Expenditures
- TABOR Refunds
- Local Government

**Appropriations.** For FY 2026-27, the bill includes an appropriation of \$1.1 million, but requires an appropriation of \$808,147 to the Judicial Department. See State Appropriations section.

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

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$209,000	\$209,000
State Expenditures	\$827,823	\$678,024
Transferred Funds	\$330,000	\$0
Change in TABOR Refunds	\$209,000	\$209,000
Change in State FTE	0.8 FTE	0.8 FTE

Fund sources for these impacts are identified in tables below.

The bill requires a transfer of \$1.0 million from the Law Enforcement Community Services Grant Program to the Forfeiture Defense Fund; however, the unencumbered fund balance for this grant program is approximately \$330,000. See Technical Note.

**Table 1A  
 State Revenue**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
General Fund	\$0	\$0
Cash Funds	\$209,000	\$209,000
<b>Total Revenue</b>	<b>\$209,000</b>	<b>\$209,000</b>

**Table 1B  
 State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
General Fund	\$0	\$0
Cash Funds	\$808,147	\$658,348
Federal Funds	\$0	\$0
Centrally Appropriated	\$19,676	\$19,676
<b>Total Expenditures</b>	<b>\$827,823</b>	<b>\$678,024</b>
<b>Total FTE</b>	<b>0.8 FTE</b>	<b>0.8 FTE</b>

**Table 1C  
 State Transfers**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Law Enforcement Community Services Grant Fund	-\$330,000	\$0
Forfeiture Defense Counsel Fund	\$330,000	\$0
<b>Net Transfer</b>	<b>\$0</b>	<b>\$0</b>

## Summary of Legislation

The bill requires that defendants in forfeiture proceedings be appointed legal counsel upon request and creates a cash fund to pay for attorney fees. It also changes the distribution of forfeiture proceeds, as outlined below.

### Forfeiture Without a Criminal Conviction

Current law allows for circumstances when a law enforcement agency may retain seized property (forfeiture) without a criminal conviction. The bill requires a criminal conviction be entered against a defendant for a law enforcement agency to retain the forfeiture assets. The bill also requires a plaintiff to prove that a deceased owner of the seized property was involved in criminal acts (“innocent owner”).

## **Defense Counsel in Forfeiture Cases**

The bill establishes a right for defendants to be represented by counsel during forfeiture cases. Courts must appoint an attorney to represent any defendant who requests legal representation. This attorney must either be a private attorney or defendant self-representation. Upon request for counsel, the forfeiture proceeding must continue for at least 21 days unless counsel waives this requirement. Attorney costs are paid from the newly created Forfeiture Defense Counsel Fund. Compensation for forfeiture defense cannot exceed \$3,500 unless the court finds good cause to pay a higher amount. If the defendant prevails in the forfeiture case, the plaintiff must reimburse costs for the defendant's attorney fees, including those from the fund.

## **Forfeiture Defense Counsel Fund and Financing**

The bill creates the Forfeiture Defense Counsel Fund in the State Treasury. Subject to annual appropriations from the General Assembly, the fund may make payments to forfeiture defense counsel. The fund may also receive gifts, grants, and donations. Current law requires 25 percent of seized property sold at a public sale by a law enforcement agency to be distributed to organizations contracting with the Behavioral Health Administration to finance substance use disorder treatment. The bill diverts this 25 percent distribution to the fund. Additionally, on July 1, 2026, the bill requires the State Treasurer to transfer \$1 million dollars from the Law Enforcement Community Services Grant Program to the fund (see Technical Note).

## **Seizing Agencies and Distribution of Forfeiture Assets**

The bill clarifies that after July 1, 2026, the seizing law enforcement agency may only retain any proceeds from the sale of forfeited property for the costs of storing the seized property and costs to the district attorney for prosecuting in the forfeiture proceeding.

## **Grants**

The bill requires the State Court Administrator's Office to administer grants from the Forfeiture Defense Counsel Fund.

## **Appropriation**

The bill includes an appropriation of \$1.1 million from the Forfeiture Defense Counsel Fund to the Judicial Department.

## **Background and Assumptions**

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The Department of Local Affairs (DOLA) [reports](#) that total forfeited assets were valued at \$9.8 million in 2024. These amounts came from seized assets in 754 federal, state, local, and multijurisdictional cases. Of these, 325 cases were handled in state court rather than federal court. The fiscal note assumes half of these state cases will reimburse private attorneys and that they will be awarded the maximum allowable amount. The fiscal note also assumes that law enforcement agencies will seize a similar amount of assets in future years as the 2024 total, resulting in \$209,000 available for the Forfeiture Defense Counsel Fund that otherwise would have been paid to contractors for the Behavioral Health Administration.

It is further assumed that the Judicial Department's administrative costs will be paid from the Forfeiture Defense Counsel Fund.

## **State Revenue**

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By changing the destination for certain forfeiture proceeds from organizations that contract with the Behavioral Health Administration, which are not state entities, to the Forfeiture Defense Counsel Fund, the bill increases state revenue from local governments who seize forfeited property by \$209,000 per year. This additional revenue is subject to TABOR.

The bill may also increase revenue from gifts, grants, and donations to the Forfeiture Defense Counsel Fund. At time of writing, no sources of funding have been identified. Gift, grants and donations are not subject to TABOR.

## **State Transfers**

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The bill requires a \$1.1 million transfer from the Law Enforcement Community Services Grant program to the Forfeiture Defense Counsel Fund. The fiscal note assumes that the actual amount transferred will be the currently unencumbered balance of the grant program, which is approximately \$330,000. See Technical Note.

## **State Expenditures**

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The bill increases state expenditures in the Judicial Department by about \$828,000 in FY 2026-27 and \$678,000 in FY 2027-28 and ongoing. These costs, paid from the Forfeiture Defense Counsel Fund, are summarized in Table 2 and discussed below. The bill also reduces workload in the Department of Local Affairs.

**Table 2  
 State Expenditures  
 Judicial Department**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Personal Services	\$86,824	\$86,824
Operating Expenses	\$1,024	\$1,024
Capital Outlay Costs	\$7,000	\$0
Counsel Reimbursement	\$570,500	\$570,500
Information Technology Development	\$142,799	\$0
Centrally Appropriated Costs	\$19,676	\$19,676
<b>Total Costs</b>	<b>\$827,823</b>	<b>\$678,024</b>
<b>Total FTE</b>	<b>0.8 FTE</b>	<b>0.8 FTE</b>

## Judicial Department

### Staff

Beginning in FY 2026-27 and ongoing, the Judicial Department will require 0.5 Programs Analyst and 0.3 Financial Analyst to implement the bill. These staff will create a repository of court appointed counsels for defendants, account for expenditures, input data into State Court Administrator’s Office data systems, manage revenue through gifts, grants and donations and administer grants. Costs assume a July 2026 start date and standard operating and capital outlay costs are included.

### Counsel Reimbursement

The Judicial Department will reimburse private counsel for \$3,500 a case for 163 cases per year, as outlined in the Background and Assumptions section above, resulting in \$570,500 annually.

### Information Technology Development

The State Court Administrators Office will require updates to their Court Appointed Counsel Application to comply with the bill. Based on an expedited timeline, user analysis, testing and quality assurance, these costs are estimated at \$142,799 in FY 2026-27 only.

## **Department of Local Affairs**

By transferring out the remaining balance of the Law Enforcement Community Services Grant Program, disbursements in FY 2026-27 and FY 2027-28 will reduce grant administration and accounting workload in the Division of Local Government. Because this grant program will continue to receive forfeiture proceeds from local law enforcement, the fiscal note assumes funding will continue with reduced disbursements in FY 2026-27 and FY 2027-28 to accommodate the transfer.

## **Cash Fund Creation – Departments of Personnel and Treasury**

Workload will increase for the Departments of Personnel and Administration and Treasury to manage and perform accounting for the cash fund created in the bill. While no appropriation is required at this time, these departments may seek additional funding through the annual budget process based on the cumulative impact of all cash funds created through legislation.

## **Centrally Appropriated Costs**

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in Table 2 above.

## **TABOR Refunds**

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The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amount listed in table 1A in FY 2026-27. This estimate assumes the March 2026 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2027-28. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save in FY 2026-27, FY 2027-28, and any future years when the state is over its revenue limit.

## **Local Government**

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The bill will reduce local government revenue and workload.

It will reduce funding from the Law Enforcement Community Services grant program to agencies that would receive funding for law enforcement training and equipment, and reduce related workload.

To the extent a respondent prevails in a forfeiture proceeding, counsel reimbursement costs will be paid from the Forfeiture Counsel Defense Fund.

## Technical Note

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The bill requires a transfer of \$1 million from the Law Enforcement Community Services Grant Program to the newly created Forfeiture Defense Counsel Fund. The current fund balance is insufficient to accomplish this transfer on the date the bill requires. Revenue to the grant program fund averages approximately \$220,000 annually. After accounting for current contracts and other encumbrances, the fiscal note estimates that fully depleting the fund would result in \$330,000 transferred on July 1, 2026. Fully depleting the fund will disrupt operations currently financed by the grant program while also failing to comply with the transfer amount the bill requires.

## Effective Date

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The bill takes effect July 1, 2026.

## State Appropriations

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For FY 2026-27, the bill includes an appropriation of \$1.1 million from the Forfeiture Defense Counsel Fund to the Judicial Department; however, the fiscal note identifies that the bill requires an appropriation of \$808,147 from the Forfeiture Defense Counsel Fund to the Judicial Department, and 0.8 FTE.

## State and Local Government Contacts

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Counties	Municipalities
Denver County Courts	Personnel
District Attorneys	Public Defender
Human Services	Public Safety
Judicial	Sheriffs
Law	Treasury
Local Affairs	