



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

Sen. Bright; Wallace

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Fiscal note status: The revised fiscal note reflects the introduced bill, as amended by the House Judiciary Committee and the House Appropriations Committee.

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 requires an appropriation of \$570,500 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 | \$55,500 | \$385,000 |
| State Expenditures | \$570,500 | \$570,500 |
| Transferred and Diverted Funds | \$570,500 | \$185,500 |
| Change in TABOR Refunds | \$0 | \$0 |
| Change in State FTE | 0.0 FTE | 0.0 FTE |

Fund sources for these impacts are identified in tables below.

**Table 1A
 State Revenue**

| Fund Source | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|--|-----------------------------------|--------------------------------|
| General Fund | \$0 | \$0 |
| Cash Funds (Gifts, Grants and Donations) | \$55,000 | \$385,000 |
| Total Revenue | \$55,000 | \$385,000 |

**Table 1B
 State Expenditures**

| Fund Source | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|---------------------------|-----------------------------------|--------------------------------|
| General Fund | \$0 | \$0 |
| Cash Funds | \$570,500 | \$570,500 |
| Federal Funds | \$0 | \$0 |
| Centrally Appropriated | \$0 | \$0 |
| Total Expenditures | \$570,500 | \$570,500 |
| Total FTE | 0.0 FTE | 0.0 FTE |

Expenditures may be lower if gifts, grants and donations received are less than assumed.

**Table 1C
 State Transfers**

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

**Table 1D
 State Diversion**

| Fund Source | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|---|-----------------------------------|--------------------------------|
| Law Enforcement Community Services Grant Fund | -\$185,500 | -\$185,500 |
| Forfeiture Defense Counsel Fund | \$185,500 | \$185,500 |
| Net Transfer | \$0 | \$0 |

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.

Changes to 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 that a forfeiture judgment be entered only after a criminal conviction of the nonowner in the underlying criminal offense related to the property subject to the forfeiture proceeding. The bill also requires a plaintiff to prove that a deceased owner of the seized property was involved in criminal acts (not an “innocent owner”).

Right to Counsel in Forfeiture Cases

The bill establishes a right for defendants to be represented by counsel during forfeiture cases. After September 1, 2026, the State Court Administrator’s Office must enter into a service agreement with a private contractor to provide legal defense to indigent clients upon request. Once counsel is requested, the forfeiture proceeding must continue for at least 21 days or more unless the forfeiture defense counsel waives this requirement.

Contract legal defense costs are paid from the newly created Forfeiture Defense Counsel Fund, subject to available funding. Beginning in FY 2027-28, the fund may not receive General Fund; it is restricted to gifts, grants and donations and money diverted from the Law Enforcement Community Grant Services program, as described below. If sufficient funding is unavailable, the contractor is not required to provide counsel.

Reimbursements for forfeiture defense counsel cannot exceed \$3,500 per proceeding, unless the court finds cause for a higher payment. If the defendant prevails in the forfeiture case, the plaintiff must reimburse costs for the defendant’s attorney fees, including those from the fund. By March 1, 2027, the private contractor must report certain information to the State Court Administrator’s Office regarding legal representation for forfeiture defense.

Law Enforcement Community Services Grant Program Funding

Current law requires 25 percent of seized property sold at a public sale by a law enforcement agency to be distributed to the Law Enforcement Community Services Grant Program (LECS). The bill diverts this distribution to the Forfeiture Defense Counsel Fund instead, after up to \$55,000 is first retained by the Department of Local Affairs for administering the LECS.

Additionally, on July 1, 2026, the bill requires the State Treasurer to transfer the unexpended and unencumbered money from the Law Enforcement Community Services Grant Program to the fund.

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.

Background and Assumptions

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 \$240,500 available for the Forfeiture Defense Counsel Fund that otherwise would have been deposited in the Law Enforcement Community Services Grant Fund. This number represents a three-year average, but may vary from this amount.

State Transfers and Diversions

The bill requires all unexpended and unencumbered money in the Law Enforcement Community Grant Services Program to the Forfeiture Defense Counsel Fund on July 1, 2026. At time of writing, the currently unencumbered balance of the Law Enforcement Community Services Grant Program, is approximately \$330,000.

In addition, the bill diverts approximately \$185,500 beginning in FY 2026-27 and ongoing from the Law Enforcement Community Services Grant Program to the Forfeiture Defense Counsel Fund, as outlined in the Background and Assumptions section above. Actual diverted funds will vary based on the total amount of assets seized by law enforcement agencies.

State Revenue

Beginning in FY 2026-27 and ongoing, the bill is expected to increase state revenue to the Forfeiture Defense Counsel Fund through gifts, grants and donations. At time of writing, no source of funding has been identified. For informational purposes, the fiscal note assumes that \$55,000 in FY 2026-27 and \$385,000 in FY 2027-28 is required to fully fund the assumed demand for counsel defense, as described below.

State Expenditures

The bill increases state expenditures in the Judicial Department by about \$571,000 in FY 2026-27 and ongoing. These costs, paid from both the Forfeiture Defense Counsel Fund and through gifts, grants and donations, are summarized in Table 2 and discussed below. If gifts, grants, and donations are lower than the amounts indicated in the fiscal note, counsel reimbursement will not occur in some cases. The bill also modifies workload in the Department of Local Affairs.

Table 2
State Expenditures
Judicial Department

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|---------------------------------|-----------------------------------|--------------------------------|
| Contract with Private Entity | \$570,500 | \$570,500 |
| Total Costs | \$570,500 | \$570,500 |
| Gifts, Grants, and Donations | \$55,000 | \$385,000 |
| Forfeiture Defense Counsel Fund | \$515,500 | \$185,500 |
| Total FTE | 0.0 FTE | 0.0 FTE |

Judicial Department

Contract with Private Entity

The Judicial Department will contract with a private entity to reimburse private forfeiture defense counsel at an amount not to exceed the rate of \$3,500 per case for an estimated 163 cases per year, as outlined in the Background and Assumptions section above, resulting in costs of up to \$570,500 annually. In future years, gifts, grants, and donations will be required to meet the expected demand for counsel. If the fund does not have sufficient balances to provide counsel, the private contractor is not required to provide a legal defense. The fiscal note assumes that if revenue is not sufficient to cover expenses from the Forfeiture Defense Fund, then counsel will be offered on a first-come, first-served basis until funds are exhausted. Once funds are exhausted, the fiscal note assumes counsel will not be provided to defendants.

Department of Local Affairs

Law Enforcement Community Services Grant Program

By keeping \$55,000 in the Law Enforcement Community Services Grant Program, grant administration and accounting workload in the Division of Local Government will continue. However, by eliminating the primary revenue source for the grant program, grant disbursements will be reduced in future years absent other appropriations or funding sources. For informational purposes, approximately \$400,000 in cash funds was appropriated to the grant program in the FY 2026-27 Long Bill with 1.0 FTE.

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.

Local Government

The bill will reduce local government revenue and workload from reduced funding from the Law Enforcement Community Services Grant Program. To the extent local governments are plaintiffs in cases where the defendant prevails in a forfeiture proceeding, they will have increased costs to reimburse the Forfeiture Counsel Defense Fund.

Effective Date

The bill takes effect July 1, 2026.

State Appropriations

The bill requires an appropriation of \$570,500 from the Forfeiture Defense Counsel Fund to the Judicial Department.

In addition, the bill reduces the primary source of funding for the Law Enforcement Community Services Grant Program. The General Assembly may consider funding the program from another source.

State and Local Government Contacts

Counties

Local Affairs

Denver County Courts

Municipalities

District Attorneys

Personnel

Human Services

Public Defender

Judicial

Public Safety

Law

Sheriffs

Treasury