



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

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<b>Drafting Number:</b>	LLS 23-0362	<b>Date:</b>	January 12, 2023
<b>Prime Sponsors:</b>	Sen. Kirkmeyer Rep. Pugliese	<b>Bill Status:</b>	Senate Judiciary
		<b>Fiscal Analyst:</b>	John Armstrong   303-866-6289 john.armstrong@coleg.gov

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**Bill Topic:** FIRST AMENDMENT COLLATERAL CHALLENGE COURT ORDER

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**Summary of Fiscal Impact:**

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill allows individuals in a contempt proceeding to challenge the court order on first amendment grounds. Starting in FY 2023-24, the bill may minimally increase state workload.

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**Appropriation Summary:** No appropriation is required.

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**Fiscal Note Status:** The fiscal note reflects the introduced bill.

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## Summary of Legislation

The bill permits individuals who are in a contempt proceeding to challenge the contempt judgment on the grounds that the court order violated the individual's first amendment rights under the United States Constitution.

## Background

Colorado currently follows the collateral bar rule, which limits the grounds on which a person who has disobeyed a court order can challenge the order. Contempt proceedings can be either direct, where the court directly witnesses contempt behavior, or indirect, where the contempt behavior occurs outside of the courtroom.

## State Expenditures

Starting in FY 2023-24, the bill may increase trial court workload in the Judicial Department by increasing the length of contempt proceedings. The specific number of additional contempt proceedings that will result from the bill cannot be determined. For informational purposes, there are an average of 3,046 cases per year that contain an indirect contempt citation. If 5 percent of these cases

are challenged on first amendment grounds, the courts would experience 152 additional challenges. If each challenge results in two additional hours of court proceedings to rule on the challenge, this additional workload for the Judicial branch would require 0.15 FTE, which is absorbable within existing trial court resources. In addition, while the Judicial Department does not track direct contempt proceedings, it is assumed that direct contempt proceedings are rare. The Judicial Department may seek additional resources through the budget process if the number of challenges to court orders on first amendment grounds becomes more common as a result of the bill.

## **Local Government**

Similar to state-funded district and county courts, the Denver County Court, which is managed and funded by the City and County of Denver, and municipal courts may have increased trial time under the bill.

## **Effective Date**

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to court orders issued on, before, or after this date.

## **State and Local Government Contacts**

Counties

Judicial

Law

Municipalities