



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 23-0362	Date:	June 5, 2023
Prime Sponsors:	Sen. Kirkmeyer Rep. Pugliese	Bill Status:	Postponed Indefinitely
		Fiscal Analyst:	John Armstrong 303-866-6289 john.armstrong@coleg.gov

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

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 would have allowed individuals to challenge a court order issued during a dependency and neglect proceeding on first amendment grounds. Starting in FY 2023-24, the bill would have minimally increased state workload.

Appropriation Summary: No appropriation was required.

Fiscal Note Status: The fiscal note reflects the reengrossed bill. The bill was postponed indefinitely by the House Judiciary Committee on April 27, 2023; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

The bill permits individuals who are in a dependency and neglect proceeding to challenge a contempt judgment on the grounds that the court order violated the individual's first amendment rights under the United States Constitution. Contempt judgements in dependency and neglect cases are final and appealable. The Office of the Respondent Parent's Counsel may provide representation to indigent parents in for any appeals of a contempt judgement.

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. While the Judicial Department does not track direct contempt proceedings, it is assumed that direct contempt proceedings are rare. The Judicial Department and the Office of the Respondent Parent’s Counsel (ORPC) 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. For informational purposes, ORPC contract attorneys are reimbursed at a rate of \$100 per hour starting in FY 2023-24.

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		