



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 25-1067: CRIMINAL ASSET FORFEITURE ACT

Prime Sponsors:

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

Summary Information

Overview. The bill repeals statutes pertaining to civil forfeiture and replaces them with procedures for applying forfeiture proceedings to criminal cases. The bill also imposes certain requirements on forfeiture proceedings.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis starting in FY 2025-26:

- State Revenue
- State Expenditures
- Local Government

Appropriations. For FY 2025-26, the bill requires an appropriation of \$198,277 to the Office of the State Public Defender.

Table 1
State Fiscal Impacts

Type of Impact ¹	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	-\$120,000	-\$120,000
State Expenditures	\$242,247	\$262,102
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	2.2 FTE	2.5 FTE

¹ Fund sources for these impacts are shown in the tables below.

Table 1A
State Revenue

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27
General Fund	\$0	\$0
Cash Funds	-\$120,000	-\$120,000
Total Revenue	-\$120,000	-\$120,000

Table 1B
State Expenditures

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27
General Fund	\$198,277	\$211,930
Cash Funds	\$0	\$0
Federal Funds	\$0	\$0
Centrally Appropriated	\$43,970	\$50,172
Total Expenditures	\$242,247	\$262,102
Total FTE	2.2 FTE	2.5 FTE

Summary of Legislation

The bill repeals statutes pertaining to civil forfeiture and replaces them with procedures for applying forfeiture proceedings to criminal cases, as described below.

Forfeiture Jurisdiction

The bill repeals the "Colorado Contraband Forfeiture Act" and replaces it with the "Criminal Asset Forfeiture Act." Under current law, any person who has their property seized by a law enforcement agency because the property may have been related to certain criminal activities may open a civil court case to contest the seizure and potentially regain their property. The following criminal acts are currently subject to the "Colorado Contraband Forfeiture Act":

- manufacture and distribution of a controlled substance or drug paraphernalia;
- transportation of a controlled substance or drug paraphernalia; and
- concealing or possession any controlled substance or drug paraphernalia for sale, including concealing or possessing these items in a vehicle.

The bill requires any forfeiture proceeding for the above offenses to be heard in criminal court instead of civil court. Additionally, the bill expands forfeiture proceedings to be allowed in criminal offenses relating to illegally possessed firearms. If the person in a criminal case is represented by a public defender, that public defender must be assigned to represent the defendant in the forfeiture proceeding.

Criminal courts may conduct a forfeiture hearing upon finding a defendant guilty or at their discretion. These forfeiture proceedings are conducted without a jury. If the court finds that the property is allowed to be forfeited, this decision may be appealed by defendant or a party to the forfeiture proceeding. If the court rules in favor of the defendant of the seized property, the prosecutor or the seizing agency is responsible for attorney fees for the defendant and any interest on the value of the property.

Distribution of Seized Assets

Upon a court judgement that the seizure of the property was lawful, the court may order any proceeds from the seizure to be paid to victims of the crime, lenders of the seized property, law enforcement agencies, attorneys and court staff. After these disbursements, if the court chooses to make them, seized assets must be distributed as follows:

- 50 percent to the General Fund of the government with authority over the seizing agency;
- 25 percent to Behavioral Health Administrative Services Organization in the Department of Human Services; and
- 25 percent to the Law Enforcement Community Services Grant Program Fund.

Additional Requirements for Forfeiture

The bill imposes certain conditions upon law enforcement for when property may be seized.

Prosecutors must file with the court a notice for any property they wish to seize and include certain information in the notice. Courts must return property to its owner if the prosecutor does not abide by these requirements within specified timelines.

Additional Rights of Property Owners

Defendants may petition the court to determine whether the property seizure was unconstitutionally excessive. Certain specified individuals may petition the court to return property to them. If the court determines that prosecutors have not met certain requirements, the court must return the seized property to the petitioner. The court does not have to return contraband.

Transfers of Assets to the Federal Government

The bill requires that property seized under state law must not be transferred to the United States Department of Justice unless the state law enforcement agency was participating in a joint task force with the federal government and the total value of the seized assets exceeds \$50,000.

Background

The Department of Local Affairs (DOLA) [reports](#) that total forfeiture proceeds were \$6.2 million for 2023, based on 389 state, local, and federal cases. The DOLA report contains a breakdown of the expenditures of forfeiture assets. Most proceeds from seized assets are used by law enforcement agencies for capital, vehicle and equipment expenses, travel and training, employee compensation, and other operating expenses.

The Department of Law currently has an agreement with the U.S. Drug Enforcement Agency (DEA) that allows for the sharing of forfeiture assets with participating agencies. On average, the Department of Law currently receives \$120,000 annually through this agreement with the DEA.

Assumptions

By increasing the burden of proof that a prosecutor must reach to retain seized property in a criminal proceeding, the overall value of assets seized annually will decrease by an indeterminate amount.

The fiscal note assumes 200 current drug felony cases will have a forfeiture proceeding attached to the criminal case on an annual basis and that these forfeiture proceedings will require an additional 15 hours of work from a public defender who is defending a person in a criminal case.

State Revenue

As discussed in the Background section, the bill is expected to reduce revenue to the Special Prosecution Custodial Fund in the Department of Law by about \$120,000 annually. This revenue is not subject to TABOR.

State Expenditures

The bill increases state expenditures in the Office of the State Public Defender (OSPD) within the Judicial Department by \$242,000 in FY 2025-26, \$262,000 in FY 2026-27, and a similar amount ongoing. These costs, paid from the General Fund, are summarized in Table 2 and discussed below. The bill also minimally affects workload in the Judicial Department and DOLA.

Table 2
State Expenditures
Office of the State Public Defender

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27
Personal Services	\$178,931	\$205,540
Operating Expenses	\$2,816	\$3,200
Capital Outlay Costs	\$13,340	\$0
Training and Attorney Fees	\$3,190	\$3,190
Centrally Appropriated Costs	\$43,970	\$50,172
Total Costs	\$242,247	\$262,102
Total FTE	2.2 FTE	2.5 FTE

Staff

The OSPD requires 2.2 FTE additional staff on an ongoing basis to represent clients in forfeiture proceedings. Of this, 1.4 FTE are Public Defenders, who are assisted by 0.5 FTE Investigator, 0.3 FTE Paralegal and 0.3 Administrative Assistant, according to the staffing ratios standard for the OSPD. As explained in the Assumptions section above, it is estimated that 200 cases will have a forfeiture proceeding attached to the criminal case. Costs are prorated for a September 2025 start date. Standard operating and capital outlay costs are included along with staff training and attorney registration fees. If additional cases occur, the fiscal note assumes additional resources will be requested through the annual budget process.

Judicial Department

The bill shifts forfeiture proceedings from civil to criminal courts, reducing civil filings but increasing the criminal docket workload. The fiscal note assumes a similar workload between the civil and criminal dockets. To the extent the bill's additional requirements on law enforcement agencies and prosecutors deter the seizure of property and result in fewer forfeiture cases, workload may be minimally reduced. No change in appropriations required.

The bill also requires the courts to hear motions related to claims on the property from innocent owners and lenders, as well as appeals to forfeiture rulings and challenges to the constitutionality of the forfeiture. There is not expected to be a large number of these additional motions and proceedings; any additional workload in the Judicial Department to process these additional motions can be accomplished within existing resources.

Department of Local Affairs

DOLA will continue collecting and reporting forfeiture-related data and providing technical support to local governments. No change in appropriations is required.

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, leased space, and indirect cost assessments, are shown in the expenditure table above.

Local Government

The bill may reduce local government revenue and workload. It may decrease funding from the Law Enforcement Community Services program, which receives 25 percent of the proceeds collected from the disposition of seized personal property. It may reduce workloads related to Civil Forfeiture and Seizure Reports.

District attorneys will spend additional time on criminal cases complying with the additional prosecutorial requirements of the bill and responding to motions made by innocent owners, lenders, and defendants challenging the seizure of their property.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed. It applies to any seizures occurring on or after this effective date.

State Appropriations

For FY 2025-26, the bill requires a General Fund appropriation of \$198,277 to the Office of the State Public Defender, and 2.2 FTE.

State and Local Government Contacts

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

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](#).