



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

### SB 26-005: RIGHTS VIOLATION IN IMMIGRATION ENFORCEMENT REMEDY

**Prime Sponsors:**

Sen. Weissman; Gonzales J.  
Rep. Mabrey; Zokaie

**Fiscal Analyst:**

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**Fiscal note status:** The revised fiscal note reflects the introduced bill, as amended by the Senate Judiciary Committee.

#### Summary Information

**Overview.** The bill allows individuals injured during a civil immigration enforcement action to bring civil action against an individual participating in the enforcement event.

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

- Minimal State Revenue
- State Expenditures
- Local Government

**Appropriations.** No appropriation is required as costs will be paid from the Risk Management Cash Fund, which is continuously appropriated to the Department of Personnel and Administration.

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

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	\$0
State Expenditures	\$125,604	\$125,604
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.5 FTE	0.5 FTE

Fund sources for these impacts are outlined in the table below.

**Table 1A**  
**State Expenditures**

<b>Fund Source</b>	<b>Budget Year</b> <b>FY 2026-27</b>	<b>Out Year</b> <b>FY 2027-28</b>
Risk Management Fund	\$125,604	\$0
Various Fund Sources	\$0	\$125,604
<b>Total Expenditures</b>	<b>\$125,604</b>	<b>\$125,604</b>
<b>Total FTE</b>	<b>0.5 FTE</b>	<b>0.5 FTE</b>

Costs are assumed to be paid from the Risk Management Fund in the first year. Starting in the second year, it is assumed that assessments to the Risk Management Fund will be paid by affected agencies from a mix of General Fund, cash funds, and federal funds.

## **Summary of Legislation**

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The bill allows individuals who have had their constitutional rights violated during a civil immigration enforcement action to sue an individual participating in the enforcement event who is acting under color of any federal, state, or local law. Defendants found in violation are liable for legal or equitable relief, or any other appropriate relief. Prevailing parties may be awarded reasonable attorney fees and costs. Civil actions must be brought within two years of the incident.

To the fullest extent allowed by the U.S. Constitution and 42 U.S.C. Sec. 1983, defendants cannot rely on immunity defenses.

Civil immigration enforcement is defined:

- to mean an action to investigate, question, detain, transfer, or arrest a person for the purpose of enforcing federal civil immigration law; and
- to not include actions committed by a peace officer who is acting within the scope of the peace officer's duties consistent with state law.

The bill includes a severability clause.

## **Background**

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See this LCS Issue Brief for more information about [state and federal immigration laws](#). See this LCS memorandum for more information about [state risk management funding](#).

## **Assumptions**

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The fiscal note assumes that this bill will not significantly impact liability and litigation involving peace officers employed by the state and local governments because:

- the bill targets legal relief for individuals injured by federal immigration enforcement;
- current state law prohibits state and local law enforcement from arresting or detaining an individual based solely on a civil immigration detainer, unless the detainer is accompanied by a valid judicial warrant, and also prohibits the disclosure of personal identifying information related to immigration status; and
- the bill defines civil immigration enforcement to exclude actions committed by a peace officer acting within the scope of their duties.

However, it is also assumed that lawsuits will nevertheless be filed against state and local governments due to the availability of attorneys' fees, the lack of an immunity defense for any individual participating in an immigration enforcement event, and to establish case law precedent. As such, the fiscal note assumes up to three cases per year will be filed against the state in FY 2026-27 and future years. Any impacts that occur through FY 2026-27 are assumed to be absorbable within existing risk management funds.

## **State Revenue**

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Beginning in the current FY 2025-26, filing fees to the Judicial Department may increase from civil actions filed under the bill. This impact is expected to be minimal. Filing fees are subject to TABOR.

## **State Expenditures**

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The bill increases state expenditures in the Department of Personnel and Administration (DPA) by an estimated \$126,000 in FY 2026-27 and future years. These costs for legal services are paid by affected state agencies into the Risk Management Fund, and then reappropriated for use by the Department of Law. Additional settlement costs, which have not been estimated, may also be incurred. These impacts are summarized in Table 2 and discussed below. The bill also minimally affects workload in the Judicial Department.

**Table 2**  
**State Expenditures**  
**Department of Personnel and Administration**

<b>Cost Component</b>	<b>Budget Year</b> <b>FY 2026-27</b>	<b>Out Year</b> <b>FY 2027-28</b>
Legal Services	\$125,604	\$125,604
Settlement Costs	not estimated	not estimated
<b>Total Costs</b>	<b>\$125,604</b>	<b>\$125,604</b>
<b>Total FTE</b>	<b>0.5 FTE</b>	<b>0.5 FTE</b>

## **Department of Personnel and Administration**

### **Litigation Costs**

As discussed in the Assumptions section, the bill is expected to increase expenditures in the state's risk management program in the DPA for legal services and, potentially, settlements. The state's actual costs will depend on a number of factors, including the number and complexity of cases, case outcomes, and the timing of cases and judgments. For the purposes of this fiscal note, three cases per year are assumed to require legal services starting in FY 2026-27 at a total cost of \$125,604 per year, which equates to 0.5 FTE in the Department of Law. Costs are assumed to average \$41,868 per case, which is double the 10-year average of cases involving federal claims to account for discovery and other factors involved in cases arising under the bill. The Risk Management Fund is continuously appropriated to the Department of Personnel and Administration.

### **Settlement Costs**

Any settlement costs or damage awards, if incurred, will depend on case-specific factors, including the nature of the alleged violation, the role and level of participation of state officials in federal immigration enforcement activities, and their share of any liability. Given the range of potential outcomes, these settlement costs have not been estimated. Based on other settlements involving law enforcement officers, individual settlement awards could range from tens of thousands to millions of dollars, if incurred.

### **Agency Assessments**

The Risk Management Fund is funded through risk assessments paid by agencies based on past experience and actuarial assumptions. It is assumed that assessments to cover the cost of the bill will begin in FY 2027-28 and be set through the annual budget process. If the bill results in cases that fall in different time frames or result in settlements, costs will be assessed to state agencies based on actual claims through the annual budget process.

## **Judicial Department**

Workload in the Judicial Department will increase to the extent there is an increase in civil filings under the bill. No change in appropriations is required.

## **Local Government**

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Similar to the state, local governments may have increased costs for litigation, settlements, and risk management. These costs will vary by jurisdiction and depend largely on the amount of federal immigration enforcement activities occurring within their jurisdiction and the local government's level of participation in these activities.

## **Effective Date**

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The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## **Departmental Difference**

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### **Risk Management—Departments of Personnel and Law**

The Department of Personnel and Administration estimates that risk management expenditures will increase by about \$3.3 million per year beginning in FY 2026-27, from an additional 13 cases per year against state employees who are presumed to have injured an individual while participating in federal immigration enforcement. Of this amount, about \$544,000 is for legal services provided by the Department of Law, representing approximately 3,945 hours (2.2 FTE) to defend the state when sued. This assumption is based on an interpretation of the bill that state law enforcement officers who fail to intervene in a civil immigration enforcement action that results in personal injury may be considered participants in civil immigration enforcement and may be held liable under the bill.

As outlined in the Assumptions and State Expenditures sections, the fiscal note includes legal services costs to represent the state in up to three civil actions per year.

## **State and Local Government Contacts**

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Counties	Law	Personnel
Judicial	Municipalities	