



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

SB 26-115: POST-CONVICTION RELIEF FOR CERTAIN OFFENDERS

Prime Sponsors:

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

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Fiscal note status: The revised fiscal note reflects the reengrossed bill.

Summary Information

Overview. The bill allows certain inmates to petition the court for post-conviction relief for a three-year period.

Types of impacts. The bill is projected to affect the following areas through FY 2028-29:

- State Expenditures
- Local Government

Appropriations. For FY 2026-27, the bill requires a net reduction of \$67,814 in appropriations to multiple departments. See State Appropriations section.

**Table 1
State Fiscal Impacts**

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
State Revenue	\$0	\$0	\$0
State Expenditures	-\$56,602	-\$69,081	\$0
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0
Change in State FTE	0.5 FTE	0.8 FTE	0.0 FTE

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

**Table 1A
State Expenditures**

Fund Source	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
General Fund	-\$67,814	-\$87,119	\$0
Cash Funds	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Centrally Appropriated	\$11,212	\$18,038	\$0
Total Expenditures	-\$56,602	-\$69,081	\$0
Total FTE	0.5 FTE	0.8 FTE	0.0 FTE

Summary of Legislation

For a three-year period, the bill allows an individual serving a sentence in the Colorado Department of Corrections (CDOC) to petition the court for post-conviction relief if the individual is at least 60 years old and has served at least 20 years.

Unless the prosecution agrees that the interest of justice would be served by granting post-conviction relief, a person is not eligible if they were convicted of a sex offense, human trafficking, an offense that resulted in a sentence to life imprisonment without the possibility of parole, an offense whose victim was a child younger than 12 years old, or an offense against first responders. When petitioning the court, the individual has a right to an attorney.

The bill outlines the timelines for the case, what a court needs to consider when making a ruling, and the burden the petitioner must show to have their petition approved. If a court finds that the individual meets their burden, the petitioner may file a motion for reconsideration and reduction of the initial sentence. The new sentence may range from imprisonment that totals at least 25 years to no longer than the originally imposed sentence, including up to 5 years of parole, an alternative sentence, or a sentence stipulated by the parties. If a person is serving time for multiple sentences, the court may modify the sentence to be concurrent with any other sentence imposed.

Finally, the bill allows district attorneys to petition for post-conviction relief for anyone who is not eligible as outlined above. District attorneys may also file a motion requesting court-appointed counsel for the petitioner. The Judicial Department is required to report on the number of petitions and the number of sentences imposed.

Assumptions

Assumptions made by the fiscal note that are relevant to impacts of the bill are discussed below.

Eligible Population

According to the CDOC, there are about 203 offenders over the age of 60 who have served over 20 years. Of those, 105 were convicted of murder, without the possibility of parole, resulting in **98 individuals** who would be eligible to petition the court.

Of those eligible, the fiscal note assumes:

- 85 percent do not have another disqualifying offense (**83 petitioners**);
- of those, 95 percent will go to an evidentiary hearing (**79 individuals**); and
- of those, 50 percent will go to a resentencing hearing (**39 individuals**).

California Second Look Pilot Program

According to [this RAND report](#) evaluating the California County Resentencing Pilot Program, about **16 percent of individuals were ultimately released from prison**. The California model has prosecutors making determinations, while Senate Bill 26-115 has inmates petitioning. The fiscal note uses the 16 percent of petitioners assumption in estimating the percent of petitioners who will be released from the CDOC, which equates to about **14 individuals based on 98 petitioners**. The fiscal note assumes the primary impact of the bill will be one-time, as discussed below, and also assumes that individuals released from prison will be sentenced to parole.

Timing of Cases

The fiscal note assumes that the bill's impacts related to petitioners, hearings, and resentences will occur over two fiscal years. Due to the effective date of the bill, the fiscal note assumes that 42 percent of cases will occur in the budget year and the remaining cases will occur in the outyear. As such, it is assumed that **6 individuals will be released to parole in FY 2026-27 and 8 will be released to parole in FY 2027-28**. After FY 2027-28, the fiscal note assumes that additional petitioners will be minimal.

Post-Conviction Hearing in Other States

Feedback from Maryland and Washington D.C. indicates that post-conviction hearings in their jurisdictions typically last 3 to 4 hours. Feedback from Colorado judges estimate the hearing taking around 16 hours. The fiscal note uses these reference points to estimate 8 hours per evidentiary hearing.

CDOC Jail Backlog

Based on [the March monthly report](#), the CDOC reports a jail backlog of more than 72 hours of 584 individuals due to vacancy issues within the CDOC. By freeing up beds through releasing individuals, the bill, at least in the short-term, will reduce the backlog and decrease the cost of jail reimbursement payments paid by the department. Currently, the jail reimbursement rate is \$77.16 per day (\$28,163 per year) and parole costs \$22.98 per day (\$8,388 per year), resulting in **an annual decrease of \$19,776 per individual released on parole.**

State Expenditures

On net, the bill decreases state expenditures by \$57,000 in FY 2026-27 and by \$69,000 in FY 2027-28, with minimal impacts in FY 2028-29, and no impact thereafter. Costs increase in the Office of the State Public Defender, and decrease in the CDOC. All costs and savings are paid from the General Fund, and first-year costs are prorated for a September 1 start date. These expenditure impacts are shown in Table 2 and described in the sections below. The bill will also impact workload in the Judicial Department and the Department of Public Safety.

Table 2
State Expenditures
All Departments

Department	Budget Year FY 2026-27	Out Year FY 2027-28
Office of the State Public Defender	\$62,053	\$89,124
Department of Corrections	-\$118,654	-\$158,206
Total Costs	-\$56,602	-\$69,081

Office of the State Public Defender

Expenditures in the Office of the State Public Defender will increase to provide representation to individuals petitioning the court for post-conviction relief, as described below.

Staff

Based on the assumed number of petitions outlined above, the Office of the State Public Defender requires 0.8 FTE to provide representation, with 0.3 FTE in the budget year and 0.5 FTE in the outyear. This amount assumes that each case will take about 40 hours of work on average.

Support Staff

Based on the office’s common policy, each attorney requires a ratio of support staff. This equates to 0.1 FTE investigator at a 1:3 ratio and 0.1 FTE paralegal at a 1:6 ratio in the budget and 0.2 FTE investigator and 0.1 FTE paralegal in the outyear.

Additional Costs

In addition to the standard operating and capital costs, staff require an annual training at \$1,000 per FTE and each attorney requires licensure fees at \$190 per attorney FTE.

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, indirect cost assessments, and other costs, are shown in the tables above.

**Table 2A
 State Expenditures
 Office of the State Public Defender**

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28
Personal Services	\$42,600	\$69,213
Operating Expenses	\$640	\$1,024
Capital Outlay Costs	\$7,000	\$0
Training	\$537	\$762
Attorney Fees	\$64	\$88
Centrally Appropriated Costs	\$11,212	\$18,038
Total Costs	\$62,053	\$89,124
Total FTE	0.5 FTE	0.8 FTE

Department of Corrections

The bill reduces expenditures in the CDOC as individuals are released from prison and placed on parole.

Jail Backlog Cost

Based on the assumptions outlined above, in the short term, reducing the number of individuals in the CDOC will reduce the jail backlog as new individuals in the backlog will take the new open beds. Based on the assumed number of releases, this results in a decrease of \$169,000 in FY 2026-27 and \$218,000 in FY 2027-28.

Parole

As outlined above, the fiscal note assumes that those released from prison will be placed on parole, increasing expenditures for parole operations. Based on the assumed number of releases, this increases expenditures by an estimated \$50,000 in FY 2026-27 and \$67,000 in FY 2027-28.

Long-term Savings

In the long term, to the extent that the jail backlog is reduced and beds could be closed when individuals are released, expenditures could decrease by an estimated \$187 per bed per day. These savings depend on the current prison population, and resentencing decisions. Any appropriation adjustments required for long-term savings will be addressed through the annual budget process.

**Table 2B
 State Expenditures
 Department of Corrections**

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28
Jail Backlog Payments	-\$168,980	-\$225,307
Parole Costs	\$50,326	\$67,102
Total Costs	-\$118,654	-\$158,206
Total FTE	0.0 FTE	0.0 FTE

Department of Public Safety

To the extent courts resentence offenders to community correction programs instead of parole, expenditures in the Department of Public Safety will increase. Because individual community correction boards have the ability to accept or deny placement, the fiscal note assumes that any adjustments in appropriations will occur through the annual budget process.

Judicial Department

The bill increases workload the Judicial Department for staff to hear new petitions. Based on the assumed number of petitioners going to an evidentiary hearing (79 individuals) and a resentencing hearing (39 individuals), the trial courts require 0.5 FTE judicial officer, with 0.2 FTE occurring in FY 2026-27 and 0.2 FTE occurring in FY 2027-28. This assumes that each evidentiary hearing will take 8 hours with an additional 4 hours for the judicial officer to review the case documents before the hearing, and each resentencing hearing taking 2 hours. Because these amounts are below the 0.3 FTE threshold to request additional judicial officers, the fiscal note assumes the cost is absorbable.

Local Government

Similar to the state, expenditures to district attorney offices will increase to respond to petitions for post-conviction relief. Exact increases will depend on the number of petitions issued in each judicial district. District attorney offices are funded at the county level.

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 offenses committed before, on, or after this date.

State Appropriations

For FY 2026-27, the bill requires and includes the following adjustments to General Fund appropriations totaling a net reduction of \$67,814:

- an increase of \$50,840 to the Office of the State Public Defender and 0.5 FTE; and
- a decrease of \$118,654 to the Department of Corrections.

Departmental Difference

Judicial Department

The Judicial Department estimates the bill requires \$652,000 and 2.8 FTE in FY 2026-27 through FY 2028-29 to hear additional petitions. This estimate assumes that evidentiary hearings will require 16 hours of work. Based on estimates from Maryland, the fiscal note assumes that the hearings will take a shorter amount of time and bases costs on 12 hours of work per hearing.

Department of Corrections

The CDOC estimates that the bill will have a minimal impact on the prison population. The fiscal note uses an estimate of 16 percent of eligible petitioners will be released based on a pilot program in California. The fiscal note believes this a fair, conservative estimate on the potential decrease in the prison population.

State and Local Government Contacts

Corrections

Judicial

District Attorneys