



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

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

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Published for: Senate Appropriations
Drafting number: LLS 26-0750

Version: First Revised Note
Date: April 22, 2026

Fiscal note status: The revised fiscal note reflects the introduced bill, as amended by the Senate Judiciary Committee. It has been updated to reflect new information and analysis on the number of petitioners who will seek post-conviction relief.

Summary Information

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

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- Local Government

Appropriations. For FY 2026-27, the bill requires a net change in appropriations of \$60,501 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
State Revenue	\$0	\$0
State Expenditures	\$115,082	\$112,885
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	2.0 FTE	2.6 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
General Fund	\$67,501	\$50,780
Cash Funds	\$0	\$0
Federal Funds	\$0	\$0
Centrally Appropriated	\$47,581	\$62,104
Total Expenditures	\$115,082	\$112,885
Total FTE	2.0 FTE	2.6 FTE

Summary of Legislation

The bill allows an individual in the Colorado Department of Corrections (CDOC) to petition the court for post-conviction relief if:

- the individual committed the offense when they were younger than 21 and has served at least 20 calendar years; or
- the individual is at least 60 years old and has served at least 20 years in the CDOC.

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, and requires the Judicial Department 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 98 offenders who were younger than the age of 21 when they committed their offense and have served more than 20 years; and 203 offenders over the age of 60 who have served over 20 years. Of those, 164 were convicted of murder, without the possibility of parole, resulting in **137 individuals** who would be eligible to petition the court.

Of those eligible, the fiscal note assumes:

- 85 percent do not have another disqualifying offense (**116 petitioners**);
- of those, 95 percent will go to an evidentiary hearing (**110 individuals**); and
- of those, 50 percent will go to a resentencing hearing (**55 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**. While the California model has prosecutors making determinations, while Senate Bill 26-115 has inmates petitioning, the fiscal note uses the 16 percent assumption in estimating the percent of petitioners who will be released from the CDOC, which equates to about **19 individuals based on 116 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 **8 individuals will be released to parole in FY 2026-27 and 11 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 January Monthly report](#), the CDOC reports a jail backlog of more than 72 hours of 560 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 increases state expenditures by \$208,000 in FY 2026-27 and by \$111,000 in FY 2027-28, with minimal impacts thereafter. Costs increase in the Judicial Department and 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.

Table 2
State Expenditures
All Departments

Department	Budget Year FY 2026-27	Out Year FY 2027-28
Judicial Department	\$177,163	\$217,039
Office of the State Public Defender	\$96,124	\$113,378
Department of Corrections	-\$158,206	-\$217,533
Total Costs	\$115,082	\$112,885

Judicial Department

The bill increases expenditures in the Judicial Department for staff to hear new petitions.

Judicial Officer Impact

Based on the assumed number of petitioners going to an evidentiary hearing (110 individuals) and a resentencing hearing (55 individuals), the trial courts require 0.7 FTE judicial officer, with 0.3 FTE occurring in FY 2026-27 and 0.4 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. Standard operating and capital costs are included, as well as judicial operating costs; however, the department's additional capital costs are excluded due to the temporary nature of the staff.

Support Staff

Based on the department’s common policies, each judicial officer requires a ratio of support staff. Due to the seriousness of these offenses, the fiscal note assumes a district court support staff ratio of 1:3, resulting in a need of 2.1 FTE for support staff, with 0.9 FTE occurring in FY 2026-27 and 1.2 FTE in FY 2027-28. Standard operating and capital costs are included, as well as judicial operating costs; however, the department’s additional capital costs are excluded due to the temporary nature of the staff.

District Court Operating Costs

In addition to standard operating costs, court judicial officers require an extra \$5,120 in operating costs that differ from standard state employees per 1.0 FTE. This includes costs for a law library, robes and cleaning, and travel. This cost, outlined in Table 2A, is prorated to the nearest 0.1 FTE.

**Table 2A
State Expenditures
Judicial Department**

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28
Personal Services	\$130,548	\$174,065
Operating Expenses	\$3,072	\$3,584
Capital Outlay Costs	\$14,000	\$0
Centrally Appropriated Costs	\$29,543	\$39,391
Total Costs	\$177,163	\$217,039
Total FTE	1.2 FTE	1.6 FTE

Office of the State Public Defender

Expenditures in the Office of the State Public Defender will increase to provide representation to individuals wishing to petition 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 1.2 FTE to provide representation, with 0.5 FTE in the budget year and 0.7 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 0.2 FTE investigator at a 1:3 ratio and 0.1 FTE paralegal at a 1:6 ratio in both the budget and 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.

Table 2B
State Expenditures
Office of the State Public Defender

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28
Personal Services	\$69,213	\$88,306
Operating Expenses	\$1,024	\$1,280
Capital Outlay Costs	\$7,000	\$0
Training	\$762	\$954
Attorney Fees	\$88	\$124
Centrally Appropriated Costs	\$18,038	\$22,714
Total Costs	\$96,124	\$113,378
Total FTE	0.8 FTE	1.0 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 \$225,000 in FY 2026-27 and \$310,000 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 \$67,000 in FY 2026-27 and \$92,000 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 2C
State Expenditures
Department of Corrections**

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28
Jail Backlog Payments	-\$225,307	-\$309,797
Parole Costs	\$67,102	\$92,265
Total Costs	-\$158,206	-\$217,533
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.

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.

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 the following adjustments to General Fund appropriations totaling, on net, an increase of \$67,501:

- an increase of \$147,620 to the Judicial Department, and 1.2 FTE;
- an increase of \$78,086 to the Office of the State Public Defender and 0.8 FTE; and
- a decrease of \$158,206 to the Department of Corrections.

Departmental Difference

Judicial Department

The Judicial Department estimates the bill requires \$372,000 and 1.8 FTE in FY 2026-27, and \$248,500 and 1.8 FTE in FY 2027-28 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

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](#).