



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

### SB 26-176: STATE REMEDIES FOR CONSTITUTIONAL RIGHTS VIOLATION

**Prime Sponsors:**

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

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**Version:** Initial Fiscal Note  
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**Fiscal note status:** This fiscal note reflects the introduced bill.

### Summary Information

**Overview.** The bill allows individuals to sue individuals in state court for violations of their federal constitutional rights.

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

- State Revenue
- State Expenditures
- Local Government

**Appropriations.** For FY 2026-27, the bill requires an appropriation of \$1.1 million 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	\$1,101,250	\$1,697,500
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	2.5 FTE	5.0 FTE

**Table 1A  
State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
General Fund	\$1,101,250	\$0
Risk Management Fund	\$0	\$982,000
Reappropriated Funds for Legal Services	\$0	\$715,500
<b>Total Expenditures</b>	<b>\$1,101,250</b>	<b>\$1,697,500</b>
<b>Total FTE</b>	<b>2.5 FTE</b>	<b>5.0 FTE</b>

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

## Summary of Legislation

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The bill allows a person to sue another person who, under color of any law, deprives the person of any rights, privileges, or immunities secured by the United States Constitution, unless the action is against a judicial officer for an act or omission taken in the officer’s judicial capacity. Claims must be brought within two years of the action. The bill outlines the damages the plaintiff is entitled to if they prevail in the case and damages the defendant is entitled to if the lawsuit is frivolous. Defendants may assert a defense of absolute or qualified immunity as outlined under federal law.

## Background and Assumptions

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Under [42 U.S.C. Section 1983](#), individuals may sue a person who, under color of law, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction to the deprivation of any rights, privileges, or immunities secured by the constitution and laws, except an action brought against a judicial officer.

Suits filed under Section 1983 must be heard in federal court. In the current fiscal year, the Department of Law indicates that it has received 66 such lawsuits with over 500 claims within these cases. Because the bill allows individuals to file a Section 1983 suit in state court, the fiscal note assumes this number for new cases in state courts.

Under current law, prisoner litigation is limited based on provisions in the federal Prisoner Litigation Reform Act. Because those limitations apply to federal cases, but not state cases, the fiscal note assumes additional cases will be brought to state court from prisoners as well.

## State Revenue

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The bill may increase civil case filings in the Judicial Department. For informational purposes, the current civil case filing fee is \$265. In addition, to the extent that the state is awarded reasonable costs and attorney's fees for frivolous claims, revenue will increase. Fee revenue is subject to TABOR, while damage awards are not subject to TABOR.

## State Expenditures

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The bill increases state expenditures in the Department of Personnel and Administration (DPA) and Department of Law by an estimated \$1.1 million in FY 2026-27 and \$1.7 million in FY 2027-28 and future years. In the first year, costs are assumed to be paid from the General Fund. In the second and future years, costs are assumed to be paid from various fund sources paid into the Risk Management Fund or reappropriated from state agencies to the Department of Law. Additional settlement costs are also included. These impacts are summarized in Table 2 and discussed below. The bill also minimally affects workload in the Judicial Department.

**Table 2**  
**State Expenditures**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Litigation and Legal Services Costs - Department of Law	\$596,250	\$1,192,500
Settlement Costs- DPA	\$505,000	\$505,000
<b>Total Costs</b>	<b>\$1,101,250</b>	<b>\$1,697,500</b>
<b>Total FTE – Legal Services</b>	<b>2.5 FTE</b>	<b>5.0 FTE</b>

### Litigation Costs- Department of Law

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 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, it is assumed the following categories of legal services are required:

- 900 hours and 0.5 FTE in FY 2026-27 and 3,600 hours and 2.0 FTE in FY 2027-28 are needed to provide representation for Risk Management in Section 1983-related cases;
- 2,700 hours and 1.5 FTE in FY 2026-27 and 3,600 hours and 2.0 FTE in FY 2027-28 are needed to defend the Department of Corrections in additional inmate litigation cases; and
- 900 hours and 0.5 FTE in FY 2026-27 and 1,800 hours and 1.0 FTE in FY 2027-28 are required to directly provide legal services and representation to other state agencies.

Due to the length of litigation, legal service hours are higher in the out year due to the assumption that cases will take longer than one year to litigate. While the fiscal note assumes General Fund is required in the first year, starting in the second year, risk management legal support is paid from the Risk Management Fund, while legal services to the Department of Corrections and other state agencies will be paid using reappropriated funds.

### **Settlement Costs- Department of Personnel and Administration**

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. The fiscal note assumes at least one settlement per year, at the Colorado Governmental Immunity Act cap, which is currently \$505,000. Actual settlement awards may 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 to the trial courts in the Judicial Department will increase to hear additional cases. The fiscal note assumes trial courts can manage the additional cases within existing appropriations.

### **Local Government**

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Similar to the state, the bill increases legal costs and potential settlement costs to the extent there are additional Section 1983 law suits filed against local governments in state court rather than federal court. Exact costs will depend on the cases, when and if cases are dismissed, and the outcome of the case. Estimates from district attorney offices on current tort claims against district attorney offices show costs ranging from \$40,000 if a case is dismissed early, to \$650,000 if a case proceeds to trial.

### **Effective Date**

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

## State Appropriations

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For FY 2026-27, the bill requires a \$1,101,250 General Fund appropriation including:

- \$477,000 to the Department of Law and 2.0 FTE; and
- \$624,250 to the Department of Personnel and Administration, of which \$119,250 is reappropriated to the Department of Law, with 0.5 FTE.

## Departmental Difference

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The Department of Personnel and Administration estimates the bill will increase expenditures on settlements by \$1.0 million per year (compared to \$0.5 million per year in the fiscal note estimate above) based on the assumption that there will be two settlements at the Colorado Government Immunity Act cap of \$505,000. Because settlements are inherently volatile, and require time for adjudication, the fiscal note assumes one settlement will occur in the first fiscal year. Out-year settlement costs will be adjusted through the annual budget process using actual experience and actuarial assumptions.

## State and Local Government Contacts

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Counties	Municipalities
District Attorneys	Personnel
Judicial	Special District Association
Law	

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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](#).