



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**HB 18-1089**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated February 15, 2018)

<b>Drafting Number:</b>	LLS 18-0687	<b>Date:</b>	April 3, 2018
<b>Prime Sponsors:</b>	Rep. Benavidez Sen. Fields	<b>Bill Status:</b>	Senate SVMA
		<b>Fiscal Analyst:</b>	Chris Creighton   303-866-5834 Chris.Creighton@state.co.us

**Bill Topic:** NO MONETARY CONDITIONS OF BOND FOR MISDEMEANORS

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue ( <i>minimal</i> )	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure ( <i>minimal</i> )	<input checked="" type="checkbox"/> Local Government ( <i>minimal</i> )
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill eliminates monetary bail for certain misdemeanor, petty, and municipal code violation offenses and makes other changes related to bond hearings and bonding procedures. State and local government revenue is decreased and expenditures and workload are minimally increased and decreased. These impacts continue in future years.

**Appropriation  
Summary:** No appropriation is required.

**Fiscal Note  
Status:** This revised fiscal note reflects the reengrossed bill.

**Summary of Legislation**

Under this bill, a defendant in custody with a monetary bond may request a hearing after five days if he or she remains in custody because he or she is unable to financially meet the bond obligations. Upon written or oral motion, the court must grant the offender at least one hearing to reconsider the monetary condition of the bond as soon as practicable. Under current law, only one such motion may be filed and can only be done so after seven days. In reconsidering the bond, the court must consider:

- the offender's financial circumstances;
- the propriety of continued detention of the offender because of the monetary bond;
- whether a sentence to probation or other community-based sentence is likely; and
- any relevant factors originally considered by the court, including a victim statement.

**Personal recognizance bond.** Except for defendants charged with driving under the influence, a crime against a victim or witness or any relevant municipal code violation, any defendant arrested and charged with a misdemeanor, petty offense, or municipal code violation must be released on a personal recognizance bond (PR bond) with no monetary conditions. Any person released on a PR bond must sign and file a written release agreement. Monetary or other bond conditions may be imposed if the court determines in writing that the defendant presents a substantial risk of flight from prosecution, to harass or intimidate a victim of witness, or to threaten the safety of another person.

**Pretrial services.** Under current law, counties are encouraged, but not required to establish pretrial services programs. This bill also encourages municipalities to establish pretrial services programs and makes statutory changes to ensure that pretrial services reports detail all cases in which a defendant was released on bond and the conditions of such bond.

## **State Revenue**

Beginning in FY 2018-19, the elimination of cash bonds for misdemeanors and petty offenses will reduce state cash fund revenue from bond forfeitures. Because cash bonds may still be imposed for all other criminal offenses, the exact impact of eliminating cash bonds for misdemeanors and petty offenses has not been estimated, but is expected to be minimal.

## **TABOR Refund**

This bill reduces state revenue from cash bonds which will reduce the amount of money required to be refunded under TABOR by a minimal amount for FY 2018-19 and FY 2019-20.

Since the bill reduces the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will increase by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

## **State Expenditures**

Beginning in FY 2018-19, this bill increases and decreases workload and costs for the Judicial Department agencies as described below.

**Judicial Department.** This bill impacts Judicial Department workload beginning in FY 2018-19. Workload and costs are potentially increased by allowing more than one motion for bond reconsideration which may lead to more hearings. Alternatively, by eliminating monetary bonds for most misdemeanor, petty offense, and municipal code violations, this bill will reduce workload and costs by eliminating the need to hold bond reconsideration hearings. Overall, this impact is expected to be minimal and will not require a change in Judicial Department appropriations.

**Office of the State Public Defender and Office of the Alternate Defense Counsel.** This bill potentially increases the Office of the State Public Defender and Office of the Alternate Defense Counsel workload and costs to counsel indigent offenders at subsequent bond reconsideration hearings if monetary bond conditions are unable to be met. However, the number of defendants that automatically qualify for representation by remaining in custody due to their inability to post a monetary bond may reduce, which could result in a workload decrease. Overall, the net impact is expected to be minimal and not require a change in appropriations for either office.

**Local Government Impact**

Overall, this bill is expected to decrease local government revenue and increases and decreases local government costs as described below. The exact impact will vary by county depending on the number of arrests, hearings, and existing court schedules.

**County jails.** To the extent that eliminating monetary bonds for certain offenses reduces the number of offenders in county jail awaiting trial, county jail costs will be decreased. However, by eliminating monetary bonds for municipal code violations, this bill potentially increases county jail costs from municipal code offenders awaiting a bond hearing. Under current law, municipal code offenders may be cited or released on a monetary bond without being booked into jail. The average cost to house an offender in county jail ranges from \$53 to \$114 per day, per offender and the net impact will vary by county.

**Denver County Court.** Similar to the state, this bill increases and decreases Denver County Court revenue, costs, and workload by potentially increasing the number of bond reconsideration hearings and by eliminating the need for hearings on monetary bonds for most misdemeanor, petty offense, and municipal code violations. These costs have not been estimated but are assumed to be minimal.

**District attorneys.** By potentially increasing the number of bond hearings, this bill is expected to increase district attorney workload and costs. More specifically, district attorney workload is increased to file motions to prevent the release of certain defendants on bond that are deemed to be a threat to public safety. This impact has not been estimated.

**Municipalities.** The elimination of cash bonds for municipal code violations will reduce municipal fee revenue from bond forfeitures. By adding municipalities to the pretrial services statute and encouraging municipalities to create pretrial services programs, this bill may increase municipal expenditures for the creation of such programs. This impact has not been estimated.

**Effective Date**

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

Alternate Defense Counsel  
Judicial  
Sheriffs

Counties  
Municipalities

District Attorneys  
Public Defender