

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0946.01 Michael Dohr x4347

**SENATE BILL 19-191**

---

**SENATE SPONSORSHIP**

**Bridges and Marble,**

**HOUSE SPONSORSHIP**

**(None),**

---

**Senate Committees**

Judiciary  
Finance  
Appropriations

**House Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING DEFENDANTS' RIGHTS RELATED TO PRETRIAL BOND.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill creates rights for defendants related to release on bond as follows:

- ! A court has to hold a bond setting hearing for a defendant within 48 hours after the defendant's arrest;
- ! Unless extraordinary circumstances exist, a defendant must be allowed to post bond within 2 hours after the sheriff receives the bond information from the court;
- ! Unless extraordinary circumstances exist, a defendant

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

cannot be charged more than a \$10 bond processing fee and not charged any additional transaction fees including kiosk fees; except that a standard credit card processing fee may be charged when a credit card is used;

! Unless extraordinary circumstances exist, the custodian of a jail has to release a defendant within 2 hours after the defendant has posted bond; and

! If a defendant has been granted bond and can meet the terms of the bond, the court shall release the defendant even if the defendant is unable to pay a fee or cost.

Under current law, a defendant's bond deposit can be applied to court costs, fees, fines, restitution, or surcharges owed by the defendant. The bill allows application of the bond if the defendant posted the bond and agrees in writing to allow it to be used for such purposes. The bill prohibits that application if the bond was posted by a third party.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 16-4-102 as  
3 follows:

4 **16-4-102. Right to bail - before conviction.** (1) Any person who  
5 is in custody, and for whom the court has not set bond and conditions of  
6 release pursuant to the applicable rule of criminal procedure, and who is  
7 not subject to the provisions of section 16-4-101 (5), has the right to a  
8 hearing to determine bond and conditions of release. A person in custody  
9 may also request a hearing so that bond and conditions of release can be  
10 set. Upon receiving the request, the judge shall notify the district attorney  
11 immediately of the arrested person's request, and the district attorney ~~shall~~  
12 ~~have~~ HAS the right to attend and advise the court of matters pertinent to  
13 the type of bond and conditions of release to be set. The judge shall also  
14 order the appropriate law enforcement agency having custody of the  
15 prisoner to bring him or her before the court forthwith, and the judge shall  
16 set bond and conditions of release if the offense for which the person was  
17 arrested is bailable. It ~~shall~~ IS not ~~be~~ a prerequisite to bail that a criminal

1 charge of any kind has been filed.

2 (2) (a) (I) THE ARRESTING JURISDICTION SHALL BRING AN  
3 IN-CUSTODY ARRESTEE BEFORE A COURT FOR BOND SETTING WITHIN  
4 FORTY-EIGHT HOURS AFTER AN ARRESTED DEFENDANT ARRIVES AT A JAIL  
5 OR HOLDING FACILITY. A COURT SHALL HOLD A BOND SETTING HEARING  
6 FOR AN IN-CUSTODY DEFENDANT WITHIN FORTY-EIGHT HOURS AFTER AN  
7 ARRESTED DEFENDANT ARRIVES AT A JAIL OR HOLDING FACILITY. AFTER  
8 SETTING BOND FOR A DEFENDANT WHO IS IN JAIL CUSTODY, THE COURT  
9 SHALL PROMPTLY PROVIDE THE JAIL WITH THE DEFENDANT'S BOND  
10 INFORMATION. USE OF AUDIOVISUAL CONFERENCING TECHNOLOGY IS  
11 PERMISSIBLE TO EXPEDITE BOND SETTING HEARINGS. WHEN HIGH-SPEED  
12 INTERNET ACCESS IS UNAVAILABLE IN A RURAL JURISDICTION MAKING  
13 AUDIOVISUAL CONFERENCING IMPOSSIBLE, THE COURT MAY CONDUCT THE  
14 HEARING TELEPHONICALLY.

15 (II) THE CHIEF JUDGE OF EACH JUDICIAL DISTRICT SHALL DEVELOP,  
16 IN CONJUNCTION WITH REPRESENTATIVES FROM SHERIFFS' OFFICES, PUBLIC  
17 DEFENDERS' OFFICES, DISTRICT ATTORNEYS' OFFICES, AND ANY OTHER  
18 AGENCIES DETERMINED NECESSARY BY THE CHIEF JUDGE, PLANS FOR  
19 COMPLYING WITH THIS SUBSECTION (2)(a). IN DEVELOPING THE PLAN, THE  
20 CHIEF JUDGE SHALL EVALUATE THE POTENTIAL OF UTILIZING NEW OR  
21 EXISTING AUDIOVISUAL CONFERENCE TECHNOLOGY. IN AREAS WHERE A  
22 LACK OF BROADBAND COVERAGE MAKES AUDIOVISUAL CONFERENCING  
23 IMPOSSIBLE OR UNRELIABLE, THE CHIEF JUDGE MAY EVALUATE THE  
24 POTENTIAL OF UTILIZING TELEPHONIC HEARINGS. NO LATER THAN  
25 NOVEMBER 1, 2019, THE STATE COURT ADMINISTRATOR'S OFFICE SHALL  
26 REPORT TO THE JUDICIARY COMMITTEES OF THE HOUSE OF  
27 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES,

1 THE PLANS FOR ALL TWENTY-TWO JUDICIAL DISTRICTS, NOT INCLUDING  
2 THE DENVER COUNTY COURT. THE REPORT MUST INCLUDE AN ESTIMATE  
3 OF RESOURCES NECESSARY TO IMPLEMENT THIS SUBSECTION (2)(a).

4 (b) UNLESS EXTRAORDINARY CIRCUMSTANCES EXIST, A  
5 DEFENDANT, A SURETY ON BEHALF OF THE DEFENDANT, OR ANOTHER  
6 THIRD PARTY ON BEHALF OF THE DEFENDANT MUST BE ALLOWED TO POST  
7 BOND WITHIN TWO HOURS AFTER THE SHERIFF RECEIVES THE BOND  
8 INFORMATION FROM THE COURT. NOTWITHSTANDING THE PROVISIONS OF  
9 THIS SECTION, A SHERIFF MAY ALLOW AN INDIVIDUAL TO CHOOSE TO STAY  
10 IN JAIL OVERNIGHT AFTER RELEASE WHEN EXTENUATING CIRCUMSTANCES  
11 EXIST, INCLUDING INCLEMENT WEATHER, LACK OF TRANSPORTATION, OR  
12 LACK OF SHELTER. THE CUSTODIAN OF A JAIL SHALL ENSURE THE  
13 DEFENDANT, A SURETY ON BEHALF OF THE DEFENDANT, OR ANOTHER  
14 THIRD PARTY ON BEHALF OF THE DEFENDANT IS NOT CHARGED MORE THAN  
15 A TEN DOLLAR BOND PROCESSING FEE. THE CUSTODIAN OF THE JAIL SHALL  
16 ALSO ENSURE THE DEFENDANT, A SURETY ON BEHALF OF THE DEFENDANT,  
17 OR ANOTHER THIRD PARTY ON BEHALF OF THE DEFENDANT IS NOT  
18 CHARGED ANY ADDITIONAL TRANSACTION FEES INCLUDING KIOSK FEES;  
19 EXCEPT THAT THE STANDARD CREDIT CARD PROCESSING FEE THAT THE  
20 CREDIT CARD COMPANY CHARGES MAY BE CHARGED WHEN A CREDIT CARD  
21 IS USED.

22 (c) UNLESS EXTRAORDINARY CIRCUMSTANCES EXIST, THE  
23 CUSTODIAN OF A JAIL SHALL RELEASE A DEFENDANT AS SOON AS  
24 PRACTICABLE BUT NO LATER THAN FOUR HOURS AFTER THE DEFENDANT  
25 IS PHYSICALLY PRESENT IN THE JAIL AND THE DEFENDANT'S BOND HAS  
26 BEEN POSTED. A SUPERVISORY CONDITION OF RELEASE DOES NOT SERVE  
27 AS A LEGAL BASIS TO CONTINUE TO DETAIN THE DEFENDANT; EXCEPT

1 THAT, IF THE DEFENDANT IS ORDERED RELEASED UPON CONDITION OF  
2 BEING SUBJECT TO ELECTRONIC MONITORING, THE DEFENDANT MAY BE  
3 HELD UP TO AS LONG AS PRACTICABLE BUT NO LONGER THAN  
4 TWENTY-FOUR HOURS AFTER THE DEFENDANT IS PHYSICALLY PRESENT IN  
5 THE JAIL AND THE DEFENDANT'S BOND HAS BEEN POSTED, IF SUCH DELAY  
6 IS NECESSARY TO ENSURE THE DEFENDANT IS FITTED WITH ELECTRONIC  
7 MONITORING AND THE COURT HAS AUTHORIZED THE DEFENDANT TO BE  
8 HELD UNTIL THE ELECTRONIC MONITOR IS FITTED. == ==

9 (d) A DEFENDANT WHO HAS POSTED BOND MUST BE RELEASED  
10 REGARDLESS OF WHETHER THE DEFENDANT HAS PAID ANY OUTSTANDING  
11 FEE, COST, OR SURCHARGE, INCLUDING BOND PROCESSING FEES, BOOKING  
12 FEES, PRETRIAL SUPERVISION FEES, OR ELECTRONIC MONITORING  
13 SUPERVISION FEES.

14 (e) FOR PURPOSES OF THIS SECTION, "EXTRAORDINARY  
15 CIRCUMSTANCES" INCLUDES AN EMERGENCY THAT RENDERS STAFF  
16 UNAVAILABLE TO PROCESS BONDS AND RELEASE DEFENDANTS, BUT IT  
17 DOES NOT INCLUDE A LACK OF STAFFING RESOURCES OR ROUTINE  
18 ADMINISTRATIVE PRACTICES.

19 **SECTION 2.** In Colorado Revised Statutes, 16-4-111, **amend**  
20 (1)(b) as follows:

21 **16-4-111. Disposition of security deposits upon forfeiture or**  
22 **termination of bond.** (1) (b) (I) ~~Notwithstanding the provisions of~~  
23 ~~paragraph (a) of this subsection (1),~~ If the depositor of the cash bond is  
24 the defendant and the defendant owes court costs, fees, fines, restitution,  
25 or surcharges at the time the defendant is discharged from all liability  
26 under the terms of the bond, the court may apply the deposit toward any  
27 amount owed by the defendant in court costs, fees, fines, restitution, or

1 surcharges IF THE DEFENDANT VOLUNTARILY AGREES IN WRITING TO THE  
2 USE OF THE DEPOSIT FOR SUCH PURPOSE. A DEFENDANT SHALL NOT BE  
3 REQUIRED TO AGREE TO APPLY THE DEPOSIT TOWARD ANY AMOUNT OWED  
4 BY THE DEFENDANT AS A CONDITION OF RELEASE. If any amount of the  
5 deposit remains after paying the defendant's outstanding court costs, fees,  
6 fines, restitution, or surcharges, the court shall return the remainder of the  
7 deposit to the defendant.

8 (II) ~~Notwithstanding the provisions of paragraph (a) of this~~  
9 ~~subsection (1),~~ If the depositor of the cash bond is not the defendant, but  
10 the defendant owes court costs, fees, fines, restitution, or surcharges at the  
11 time the defendant is discharged from all liability under the terms of the  
12 bond, the court ~~may~~ SHALL NOT apply the deposit toward the amount  
13 owed by the defendant in court costs, fees, fines, restitution, or  
14 surcharges. ~~if the depositor agrees in writing to the use of the deposit for~~  
15 ~~such purpose. If any amount of the deposit remains after paying the~~  
16 ~~defendant's outstanding court costs, fees, fines, restitution, or surcharges,~~  
17 The court shall return ~~the remainder of~~ the deposit to the depositor.

18 (III) A DEPOSITOR OF A CASH BOND WHO IS NOT THE DEFENDANT  
19 MAY DEPOSIT BOND FUNDS DIRECTLY WITH THE JAIL. THE DEPOSITOR  
20 SHALL NOT BE REQUIRED TO PAY ANY ADDITIONAL FEES, COSTS, OR  
21 SURCHARGES OTHER THAN THE BOND AMOUNT AND BOND PROCESSING  
22 FEE. THE DEPOSITOR SHALL NOT BE REQUIRED TO APPLY BOND FUNDS TO  
23 THE DEFENDANT'S INMATE ACCOUNT FOR PAYMENT OF THE BOND AND  
24 SHALL NOT BE REQUIRED TO DEPOSIT MONEY IN THE DEFENDANT'S NAME.

25 **SECTION 3. Act subject to petition - effective date -**  
26 **applicability.** (1) Section 16-4-102 (2)(a) in section 1 of this act takes  
27 effect July 1, 2020, and the remainder of this act takes effect at 12:01 a.m.

1 on the day following the expiration of the ninety-day period after final  
2 adjournment of the general assembly (August 2, 2019, if adjournment  
3 sine die is on May 3, 2019); except that, if a referendum petition is filed  
4 pursuant to section 1 (3) of article V of the state constitution against this  
5 act or an item, section, or part of this act within such period, then the act,  
6 item, section, or part will not take effect unless approved by the people  
7 at the general election to be held in November 2020 and, in such case,  
8 will take effect on the date of the official declaration of the vote thereon  
9 by the governor.

10 (2) Section 16-4-102 (2)(a) in section 1 of this act applies to  
11 defendants who are arrested in the county of the outstanding warrant on  
12 or after the applicable effective date of section 1 of this act, and section  
13 16-4-102 (2)(a) of section 1 of this act applies to defendants who are  
14 arrested in a different county than the county of the outstanding warrant  
15 on or after July 1, 2021.