



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 19-0092
Prime Sponsors: Rep. Herod; Soper

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Bill Status: House Judiciary
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Bill Topic: NO MONETARY BAIL FOR CERTAIN LOW-LEVEL OFFENSES

- Summary of Fiscal Impact: State Revenue (minimal), State Expenditure (minimal), State Transfer, TABOR Refund (minimal), Local Government (minimal), Statutory Public Entity

With some exceptions, this bill prohibits the use of monetary bonds for any defendant charged with a petty offense, traffic offense, or a municipal offense. Overall this bill decreases state and local government revenue, costs, and workload by a minimal amount on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

With some exceptions, this bill prohibits the use of monetary bonds for any defendant charged with a petty offense, traffic offense, or a municipal offense. The use of monetary bond as part of a local pretrial release is allowed, if the defendant is informed that they are entitled to release on a non-monetary (personal recognizance) bond if he or she waits for the required bond hearing. Monetary bond conditions may be used for a defendant who fails to appear in court or violates a condition of their release on bond.

State Revenue

Beginning in the current FY 2018-19, this bill both increases and decreases state cash fund revenue from bond forfeitures and traffic warrant fees. Overall a minimal revenue decrease is expected. These revenue sources are subject to TABOR.

Bond forfeitures. This bill decreases bond forfeiture revenue. From 2015 to 2017 there were an average of 965 bond forfeitures per year which resulted in the collection of an average of \$306,786 in cash fund revenue in total from these forfeitures. Bond forfeiture data is not available by case type; therefore, the exact bond forfeiture revenue decrease from the elimination of petty and traffic offense monetary bonds cannot be estimated. Because monetary bonds may still be imposed under current law for other offenses, this impact is assumed to be minimal.

Traffic warrant fee. Under current law, a \$30 outstanding judgement warrant fee is assessed for the failure to appear in court in traffic cases. The elimination of monetary bonds for traffic offenses could result in an increase in the number of instances where a defendant fails to appear on a traffic case which will increase traffic warrant fee revenue. A high level of compliance is assumed for any traffic offense personal recognizance bonds issued on traffic offenses; therefore, this increase is assumed to be minimal.

State Expenditures

Beginning in the current FY 2018-19, this bill both minimally increases and decreases Judicial Department workload for the trial courts and the agencies that provide indigent defense including the Office of the State Public Defender and the Alternate Defense Counsel. The elimination of monetary bonds could increase the number of instances where a defendant on bond fails to appear in court which will increase workload to produce a bench warrant and conduct a rehearing at a future date. Under current law a motion may be filed to reconsider monetary bond conditions. By eliminating monetary bonds for petty and traffic offenses this bill will reduce trial court and indigent defense costs and workload associated with bond reconsideration hearings. Overall, a minimal workload decrease is expected and no change in appropriations is needed.

TABOR refunds. The bill is expected to increase state General Fund obligations for TABOR refunds by a minimal amount in FY 2018-19 and FY 2019-20. Under current law and the December 2018 Legislative Council Staff forecast, the bill will correspondingly reduce the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Local Government

Overall, this bill is expected to impact local government revenue and costs as described below. The exact impact will vary by county depending on the number of arrests, hearings, and bond forfeitures. These impacts have not been estimated.

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. County jail costs may also increase from warrants issued for defendants released on a personal recognizance bond that fail to appear in court. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.93.

District Attorneys. District attorney workload will decrease by a minimal amount from no longer having to attend monetary bond reconsideration hearings for petty, traffic, and municipal offenses.

Denver County Court. Similar to the state, this bill decreases Denver County Court revenue, costs, and workload by eliminating the need for hearings on monetary bonds for petty offense, traffic offense, and municipal code violations. Revenue, costs, and workload are increased to the extent that more defendants fail to appear in court.

Municipalities. The elimination of cash bonds for municipal code violations will reduce municipal fee revenue from bond forfeitures and may increase revenue, costs, and workload if more defendants fail to appear in municipal court.

Effective Date

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

State and Local Government Contacts

Counties

District Attorneys

Judicial

Municipalities