

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

PREAMENDED

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

LLS NO. 23-0662.01 Michael Dohr x4347

HOUSE BILL 23-1151

HOUSE SPONSORSHIP

Woodrow and Bockenfeld, Epps

SENATE SPONSORSHIP

Rodriguez and Gardner,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CLARIFICATIONS TO THE REQUIREMENTS THAT THE**
102 **COURT CONDUCT A BOND HEARING WITHIN FORTY-EIGHT HOURS**
103 **AFTER AN INDIVIDUAL IS PLACED IN JAIL.**

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>.)

Current law requires an individual who is in jail to be brought before a judge for a bond hearing within 48 hours of arriving at the jail. The bill clarifies the circumstances when the 48-hour requirement does not apply when the individual is unable to attend court. The bill also clarifies that the 48-hour requirement applies regardless of whether:

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

- The individual is held in custody in a jurisdiction other than the one that issues the arrest warrant; or
- Money bond was previously set ex parte.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) It is the public policy of the state of Colorado to ensure
5 consistent statewide access to basic due process in criminal proceedings,
6 including bond setting;

7 (b) The general assembly passed House Bill 21-1280 to require
8 that Coloradans receive an individualized bond hearing in front of a judge
9 within forty-eight hours of arrest, and to end wide variations in prompt
10 bond hearings across the state;

11 (c) Some judicial districts consistently follow the requirements of
12 House Bill 21-1280, while others apply the provisions of House Bill
13 21-1280 in only limited cases;

14 (d) This jurisdictional split causes continued inconsistencies in
15 access to basic due process across the state and thwarts the legislative
16 intent of House Bill 21-1280; and

17 (e) Inconsistency by Colorado courts in provision of basic due
18 process is unfair and erodes public confidence in the court system.

19 (2)(a) Therefore, the general assembly enacts House Bill 23-1151
20 to clarify and confirm the mandates of House Bill 21-1280; and

21 (b) Further urges the Colorado supreme court to adopt policies to
22 ensure statewide uniformity in implementation of the requirements of
23 House Bill 23-1151 and House Bill 21-1280.

24 **SECTION 2.** In Colorado Revised Statutes, 13-10-111.5, **amend**

1 (2) as follows:

2 **13-10-111.5. Notice to municipal courts of municipal holds.**

3 (2) Once a municipal court receives notice that the defendant is being
4 held solely on the basis of a municipal hold, the municipal court shall
5 hold a hearing within forty-eight hours after the receipt of such a notice.
6 The county sheriff shall make the in-custody defendant available to
7 appear in a timely manner before a municipal judge for a hearing required
8 by this subsection (2) at the date and time mutually agreed to by the
9 county sheriff and municipal court. This subsection (2) must not be
10 construed to require the county sheriff to transport the in-custody
11 defendant to the municipal court. It is not a violation of this section if a
12 bond hearing is not held within forty-eight hours when the delay is caused
13 by circumstances in which the defendant refuses to attend court, is unable
14 to attend court due to ~~a debilitating physical ailment, or is unable to~~
15 ~~proceed due to drug or alcohol use or mental illness~~ DRUG OR ALCOHOL
16 USE, A SERIOUS MEDICAL OR BEHAVIORAL HEALTH EMERGENCY, or when
17 the delay is caused by an emergency that requires the court to close.
18 WHEN THE DEFENDANT IS UNABLE TO ATTEND COURT, THE SHERIFF SHALL
19 PROVIDE THE COURT WITH A LIST OF PEOPLE SUBJECT TO THIS SECTION
20 WHO DID NOT TIMELY ATTEND COURT, THE DATE OF THE PERSON'S ARREST,
21 AND THE LOCATION WHERE THE PERSON IS IN CUSTODY. THE SHERIFF
22 SHALL DOCUMENT THE LENGTH OF THE DELAY, THE REASON FOR THE
23 DELAY, AND THE EFFORTS TO ABATE THE EMERGENCY. AS SOON AS THE
24 EMERGENCY HAS SUFFICIENTLY ABATED, THE SHERIFF SHALL BRING THE
25 DEFENDANT BEFORE A JUDGE AT THE NEXT SCHEDULED BOND HEARING.
26 Use of audiovisual conferencing technology is permissible to expedite the
27 hearing. When high-speed internet access is unavailable, making

1 audiovisual conferencing impossible, the court may conduct the hearing
2 telephonically.

3 **SECTION 3.** In Colorado Revised Statutes, 16-4-102, **amend**
4 (2)(a)(I) and (2)(a)(II); and **add** (2)(a)(I.5) and (2)(a)(IV) as follows:

5 **16-4-102. Right to bail - before conviction.** (2) (a) (I) The
6 arresting jurisdiction shall bring an in-custody arrestee before a court for
7 bond setting as soon as practicable, but no later than forty-eight hours
8 after an arrestee arrives at a jail or holding facility. A judge, magistrate,
9 or bond hearing officer shall hold a hearing with an in-custody arrestee
10 at which the court shall enter an individualized bond order as soon as
11 practicable, but no later than forty-eight hours after an arrestee arrives at
12 a jail or holding facility. Notwithstanding the requirement for bond
13 setting within forty-eight hours, it is not a violation of this section if a
14 bond hearing is not held within forty-eight hours when the delay is caused
15 by an emergency that requires the court to close or circumstances in
16 which the ~~defendant~~ IN-CUSTODY ARRESTEE refuses to attend court, OR is
17 unable to attend court due to a ~~debilitating physical ailment, or is unable~~
18 ~~to proceed due to drug or alcohol use or mental illness~~ DRUG OR ALCOHOL
19 USE OR A SERIOUS MEDICAL OR BEHAVIORAL HEALTH EMERGENCY. IN
20 SUCH INSTANCES, THE SHERIFF SHALL PROVIDE THE PUBLIC DEFENDER'S
21 OFFICE WITH A LIST OF PEOPLE SUBJECT TO THIS SECTION WHO DID NOT
22 TIMELY ATTEND COURT, THE DATE OF THE PERSON'S ARREST, AND THE
23 LOCATION WHERE THE PERSON IS IN CUSTODY. THE SHERIFF SHALL
24 DOCUMENT THE LENGTH OF THE DELAY, THE REASON FOR THE DELAY, AND
25 THE EFFORTS TO ABATE THE EMERGENCY. AS SOON AS THE EMERGENCY
26 HAS SUFFICIENTLY ABATED, THE SHERIFF SHALL BRING THE IN-CUSTODY
27 ARRESTEE BEFORE A JUDGE AT THE NEXT SCHEDULED BOND HEARING. Use

1 of audiovisual conferencing technology is permissible to expedite bond
2 setting hearings, including prior to extradition of the ~~defendant~~
3 IN-CUSTODY ARRESTEE from one county to another in the state of
4 Colorado. When high-speed internet access is unavailable, making
5 audiovisual conferencing impossible, the court may conduct the hearing
6 telephonically.

7 (I.5) THIS SUBSECTION (2)(a) REQUIRES AN INDIVIDUALIZED BOND
8 HEARING AT WHICH THE IN-CUSTODY ARRESTEE IS PRESENT, REGARDLESS
9 OF WHETHER:

10 (A) AN IN-CUSTODY ARRESTEE IS HELD IN CUSTODY IN A
11 JURISDICTION OTHER THAN THE ONE THAT ISSUED THE ARREST WARRANT;

12 (B) MONEY BOND WITH A MONETARY CONDITION WAS PREVIOUSLY
13 SET EX PARTE; OR

14 (C) THE IN-CUSTODY ARRESTEE DID NOT APPEAR FOR A FIRST
15 APPEARANCE.

16 (II) This subsection (2)(a) applies only to the initial bond setting
17 AT AN INDIVIDUALIZED BOND HEARING by a judge, JUDICIAL OFFICER, OR
18 BOND HEARING OFFICER.

19 (IV) FOR AN IN-CUSTODY ARRESTEE WHO IS NOT SUBJECT TO THIS
20 SUBSECTION (2)(a), NOTHING IN THIS SECTION EXTENDS OR JUSTIFIES
21 DELAYS IN TIMELY ADVISEMENT OR BOND HEARINGS PURSUANT TO OTHER
22 LAWS OR RULES.

23 **SECTION 4. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, or safety.