

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

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BILL 2

LLS NO. 18-0244.01 Richard Sweetman x4333

INTERIM COMMITTEE BILL

**County Courthouse and County Jail Funding and Overcrowding Solutions
Interim Study Committee**

BILL TOPIC: "Reform Pretrial Risk Assessment And Bonding"

A BILL FOR AN ACT

101 **CONCERNING REFORM OF PRETRIAL CRIMINAL PROCEDURES, AND, IN**
102 **CONNECTION THEREWITH, REQUIRING EACH COUNTY AND EACH**
103 **CITY AND COUNTY TO IMPLEMENT A PRETRIAL SERVICES**
104 **PROGRAM AND PROHIBITING THE USE OF MONETARY BONDING**
105 **EXCEPT FOR CERTAIN DEFENDANTS.**

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/>.)

County Courthouse and County Jail Funding and Overcrowding Solutions Interim Study Committee. The bill states that,

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

with certain exceptions, a court shall not require a defendant arrested and charged for any misdemeanor, petty offense, or municipal code violation to post monetary bail as a condition of being discharged from custody. At the first court appearance of a person in custody for the alleged commission of any such offense, the court, after considering the report of a pretrial services program, shall determine the conditions of the person's release and order the person to be released after he or she signs and files with the clerk of the court a written release agreement. A prosecuting attorney may file a motion with the court at any time, including any time before a defendant's release, seeking the pretrial detention of the defendant due to certain described circumstances.

Under current law, with certain exceptions, any person who is in custody and for whom the court has not set bond and conditions of release has the right to a hearing within 96 hours of his or her arrest. The bill states that such a person has a right to a hearing within 48 hours of his or her arrest.

Under current law, all counties and cities and counties are encouraged to develop a pretrial services program. The bill requires each county and each city and county to implement a pretrial services program on and after the effective date of the bill.

Under current law, if a person is in custody and the court imposed a monetary condition of bond for release, and the person, after 7 days from the setting of the monetary condition of bond, is unable to meet the monetary obligations of the bond, the person may file a written motion for reconsideration of the monetary conditions of the bond, and the court must conduct a hearing on this motion within 14 days. For such cases in which the court established the monetary condition of bond based on a bond schedule, the bill removes the requirement that the person file a written motion and requires the court to conduct a hearing for reconsideration automatically.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 16-4-101 as
3 follows:

4 **16-4-101. Bailable offenses - nonbailable offenses - definitions.**

5 (1) ~~All persons shall be bailable by sufficient sureties except:~~ EXCEPT IN
6 THE CASE OF A MISDEMEANOR FOR WHICH THE UNDERLYING ACT WAS AN
7 ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1); OR
8 A CASE INVOLVING ASSAULT IN THE THIRD DEGREE, AS DESCRIBED IN

1 SECTION 18-3-204; OR A CASE OF VIOLATION OF A PROTECTION ORDER, AS
2 DESCRIBED IN SECTION 18-6-803.5, A COURT SHALL NOT REQUIRE A
3 DEFENDANT ARRESTED AND CHARGED FOR ANY MISDEMEANOR, PETTY
4 OFFENSE, OR MUNICIPAL CODE VIOLATION TO POST MONETARY BAIL AS A
5 CONDITION OF BEING DISCHARGED FROM CUSTODY.

6 ~~(a) For capital offenses when proof is evident or presumption is~~
7 ~~great; or~~

8 ~~(b) When, after a hearing held within ninety-six hours of arrest~~
9 ~~and upon reasonable notice, the court finds that the proof is evident or the~~
10 ~~presumption is great as to the crime alleged to have been committed and~~
11 ~~finds that the public would be placed in significant peril if the accused~~
12 ~~were released on bail and such person is accused in any of the following~~
13 ~~cases:~~

14 ~~(I) A crime of violence alleged to have been committed while on~~
15 ~~probation or parole resulting from the conviction of a crime of violence;~~

16 ~~(II) A crime of violence alleged to have been committed while on~~
17 ~~bail pending the disposition of a previous crime of violence charge for~~
18 ~~which probable cause has been found;~~

19 ~~(III) A crime of violence alleged to have been committed after two~~
20 ~~previous felony convictions, or one such previous felony conviction if~~
21 ~~such conviction was for a crime of violence, upon charges separately~~
22 ~~brought and tried under the laws of this state or under the laws of any~~
23 ~~other state, the United States, or any territory subject to the jurisdiction of~~
24 ~~the United States which, if committed in this state, would be a felony;~~

25 ~~(IV) A crime of possession of a weapon by a previous offender~~
26 ~~alleged to have been committed in violation of section 18-12-108 (2)(b),~~
27 ~~(2)(c), (4)(b), (4)(c), or (5), C.R.S.;~~

1 ~~(V) Sexual assault, as described in section 18-3-402, sexual~~
2 ~~assault in the first degree, as described in section 18-3-402, as it existed~~
3 ~~prior to July 1, 2000, sexual assault in the second degree, as described in~~
4 ~~section 18-3-403, as it existed prior to July 1, 2000, sexual assault on a~~
5 ~~child, as described in section 18-3-405, or sexual assault on a child by one~~
6 ~~in a position of trust, as described in section 18-3-405.3 in which the~~
7 ~~victim is fourteen years of age or younger and seven or more years~~
8 ~~younger than the accused.~~

9 ~~(c) When a person has been convicted of a crime of violence or a~~
10 ~~crime of possession of a weapon by a previous offender, as described in~~
11 ~~section 18-12-108 (2)(b), (2)(c), (4)(b), (4)(c), or (5), C.R.S., at the trial~~
12 ~~court level and such person is appealing such conviction or awaiting~~
13 ~~sentencing for such conviction and the court finds that the public would~~
14 ~~be placed in significant peril if the convicted person were released on~~
15 ~~bail.~~

16 ~~(2) (a) For purposes of this section, "crime of violence" shall have~~
17 ~~the same meaning as set forth in section 18-1.3-406 (2), C.R.S. IF, AFTER~~
18 ~~A HEARING HELD WITHIN FORTY-EIGHT HOURS AFTER ARREST AND UPON~~
19 ~~REASONABLE NOTICE, THE COURT FINDS THAT THE PROOF IS EVIDENT OR~~
20 ~~THE PRESUMPTION IS GREAT AS TO THE CRIME ALLEGED TO HAVE BEEN~~
21 ~~COMMITTED AND FINDS THAT THE PUBLIC WOULD BE PLACED IN~~
22 ~~SIGNIFICANT PERIL IF THE ACCUSED PERSON WERE RELEASED ON BAIL AND~~
23 ~~HE OR SHE IS ACCUSED IN ANY OF THE FOLLOWING CASES, THEN HE OR SHE~~
24 ~~MAY NOT BE DISCHARGED FROM CUSTODY BY POSTING MONETARY BAIL:~~

25 ~~(I) A CAPITAL OFFENSE WHEN PROOF IS EVIDENT OR PRESUMPTION~~
26 ~~IS GREAT;~~

27 ~~(II) A CRIME OF VIOLENCE ALLEGED TO HAVE BEEN COMMITTED~~

1 WHILE ON PROBATION OR PAROLE RESULTING FROM THE CONVICTION OF A
2 CRIME OF VIOLENCE;

3 (III) A CRIME OF VIOLENCE ALLEGED TO HAVE BEEN COMMITTED
4 WHILE ON BAIL PENDING THE DISPOSITION OF A PREVIOUS CRIME OF
5 VIOLENCE CHARGE FOR WHICH PROBABLE CAUSE HAS BEEN FOUND;

6 (IV) A CRIME OF VIOLENCE ALLEGED TO HAVE BEEN COMMITTED
7 AFTER TWO PREVIOUS FELONY CONVICTIONS, OR ONE SUCH PREVIOUS
8 FELONY CONVICTION IF SUCH CONVICTION WAS FOR A CRIME OF VIOLENCE,
9 UPON CHARGES SEPARATELY BROUGHT AND TRIED UNDER THE LAWS OF
10 THIS STATE OR UNDER THE LAWS OF ANY OTHER STATE, THE UNITED
11 STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED
12 STATES THAT, IF COMMITTED IN THIS STATE, WOULD BE A FELONY;

13 (V) A CRIME OF POSSESSION OF A WEAPON BY A PREVIOUS
14 OFFENDER ALLEGED TO HAVE BEEN COMMITTED IN VIOLATION OF SECTION
15 18-12-108 (2)(b), (2)(c), (4)(b), (4)(c), OR (5);

16 (VI) SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402;
17 SEXUAL ASSAULT IN THE FIRST DEGREE, AS DESCRIBED IN SECTION
18 18-3-402, AS IT EXISTED PRIOR TO JULY 1, 2000; SEXUAL ASSAULT IN THE
19 SECOND DEGREE, AS DESCRIBED IN SECTION 18-3-403, AS IT EXISTED PRIOR
20 TO JULY 1, 2000; SEXUAL ASSAULT ON A CHILD, AS DESCRIBED IN SECTION
21 18-3-405; OR SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF
22 TRUST, AS DESCRIBED IN SECTION 18-3-405.3 IN WHICH THE VICTIM IS
23 FOURTEEN YEARS OF AGE OR YOUNGER AND SEVEN OR MORE YEARS
24 YOUNGER THAN THE ACCUSED.

25 (b) WHEN A PERSON HAS BEEN CONVICTED OF A CRIME OF
26 VIOLENCE OR A CRIME OF POSSESSION OF A WEAPON BY A PREVIOUS
27 OFFENDER, AS DESCRIBED IN SECTION 18-12-108 (2)(b), (2)(c), (4)(b),

1 (4)(c), OR (5), AT THE TRIAL COURT LEVEL AND THE PERSON IS APPEALING
2 THE CONVICTION OR AWAITING SENTENCING FOR THE CONVICTION, AND
3 THE COURT FINDS THAT THE PUBLIC WOULD BE PLACED IN SIGNIFICANT
4 PERIL IF THE CONVICTED PERSON WERE RELEASED ON BAIL, THEN THE
5 PERSON MAY NOT BE DISCHARGED FROM CUSTODY BY POSTING MONETARY
6 BAIL.

7 (3) A PROSECUTING ATTORNEY MAY FILE A MOTION WITH THE
8 COURT AT ANY TIME, INCLUDING ANY TIME BEFORE A DEFENDANT'S
9 RELEASE, SEEKING THE PRETRIAL DETENTION OF THE DEFENDANT IN ANY
10 OF THE FOLLOWING CIRCUMSTANCES:

11 (a) THE PROSECUTING ATTORNEY ASSERTS THAT ANY OF THE
12 CIRCUMSTANCES DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION EXIST;

13 (b) THE DEFENDANT IS CHARGED WITH A FELONY INVOLVING A
14 CRIME OF VIOLENCE AND THE PROSECUTOR ASSERTS THAT:

15 (I) THE FACTS ARE EVIDENT OR THE PRESUMPTION IS GREAT;

16 (II) THERE IS NO CONDITION OR COMBINATION OF CONDITIONS OF
17 PRETRIAL RELEASE THAT WOULD REASONABLY ENSURE THE PHYSICAL
18 SAFETY OF ONE OR MORE PERSONS;

19 (III) THERE IS A SUBSTANTIAL LIKELIHOOD THAT THE DEFENDANT'S
20 RELEASE WOULD RESULT IN HARM TO ONE OR MORE PERSONS; OR

21 (c) THE DEFENDANT IS CHARGED WITH A FELONY AND THE
22 PROSECUTING ATTORNEY ASSERTS THAT:

23 (I) THE FACTS ARE EVIDENT OR THE PRESUMPTION IS GREAT;

24 (II) THE DEFENDANT HAS THREATENED A PERSON WITH DEATH OR
25 SERIOUS BODILY HARM;

26 (III) THERE IS NO CONDITION OR COMBINATION OF CONDITIONS OF
27 PRETRIAL RELEASE THAT WOULD REASONABLY ENSURE THE PHYSICAL

1 SAFETY OF THE PERSON WHO WAS THREATENED; AND

2 (IV) THERE IS A SUBSTANTIAL LIKELIHOOD THAT THE DEFENDANT
3 WOULD CARRY OUT THE THREAT IF RELEASED.

4 ~~(3)~~ (4) In any capital case, the defendant may make a written
5 motion for admission to bail upon the ground that the proof is not evident
6 or that presumption is not great, and the court shall promptly conduct a
7 hearing upon such motion. At such hearing, the burden ~~shall be~~ IS upon
8 the people to establish that the proof is evident or that the presumption is
9 great. The court may combine in a single hearing the questions as to
10 whether the proof is evident or the presumption great with the
11 determination of the existence of probable cause to believe that the
12 defendant committed the crime charged.

13 ~~(4)~~ (5) Except in the case of a capital offense, if a person is denied
14 bail AND PRETRIAL RELEASE under this section, the PERSON'S trial ~~of the~~
15 ~~person shall be commenced~~ MUST COMMENCE not more than ninety-one
16 days after the date on which bail is denied. If the trial is not commenced
17 within ninety-one days and the delay is not attributable to the defense, the
18 court shall immediately CONSIDER CONDITIONS FOR THE PERSON'S
19 PRETRIAL RELEASE OR schedule a bail hearing and ~~shall~~ set the amount of
20 the bail for the person.

21 ~~(5)~~ (6) When a person is arrested for a crime of violence, as
22 defined in section 16-1-104 (8.5), or a criminal offense alleging the use
23 or possession of a deadly weapon or the causing of bodily injury to
24 another person, or a criminal offense alleging the possession of a weapon
25 by a previous offender, as described in section 18-12-108 (2)(b), (2)(c),
26 (4)(b), (4)(c), or (5), ~~C.R.S.~~, and ~~such~~ THE person is on parole, the law
27 enforcement agency making the arrest shall notify the department of

1 corrections within twenty-four hours. The person so arrested ~~shall~~ IS not
2 ~~be~~ eligible for bail to be set until at least seventy-two hours ~~from~~ AFTER
3 the time of his or her arrest. ~~has passed.~~

4 (7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
5 REQUIRES:

6 (a) "CRIME OF VIOLENCE" HAS THE SAME MEANING AS SET FORTH
7 IN SECTION 18-1.3-406 (2).

8 (b) "SERIOUS BODILY HARM" HAS THE SAME MEANING AS SET
9 FORTH IN SECTION 18-1-901 (3)(p).

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

12 **16-4-102. Right to hearing within forty-eight hours - bail**
13 **before conviction.** Any person who is in custody, and for whom the court
14 has not set bond and conditions of release pursuant to the applicable rule
15 of criminal procedure, and who is not ~~subject to the provisions of section~~
16 ~~16-4-101 (5)~~ INELIGIBLE FOR RELEASE ON BOND PURSUANT TO SECTION
17 16-4-101, has the right to a hearing NOT LATER THAN FORTY-EIGHT HOURS
18 AFTER HIS OR HER ARREST to determine bond ~~and~~ OR conditions of release.
19 A person in custody may also request a hearing so that bond ~~and~~ OR
20 conditions of release can be set. Upon receiving the request, the judge
21 shall notify the district attorney immediately of the arrested person's
22 request, and the district attorney ~~shall have the right to~~ MAY attend and
23 advise the court of matters pertinent to the type of bond and conditions of
24 release to be set. The judge shall also order the appropriate law
25 enforcement agency having custody of the prisoner to bring him or her
26 before the court forthwith, and the judge shall set bond ~~and~~ OR conditions
27 of release. ~~if the offense for which the person was arrested is bailable.~~ It

1 shall IS not be a prerequisite to bail that a criminal charge of any kind has
2 been filed.

3 **SECTION 3.** In Colorado Revised Statutes, **amend** 16-4-103 as
4 follows:

5 **16-4-103. Conditions of pretrial release - setting and selection**
6 **type of bond - criteria.** (1) EXCEPT IN THE CASE OF A MISDEMEANOR FOR
7 WHICH THE UNDERLYING ACT WAS AN ACT OF DOMESTIC VIOLENCE, AS
8 DEFINED IN SECTION 18-6-800.3 (1); OR A CASE INVOLVING ASSAULT IN
9 THE THIRD DEGREE, AS DESCRIBED IN SECTION 18-3-204; OR A CASE OF
10 VIOLATION OF A PROTECTION ORDER, AS DESCRIBED IN SECTION
11 18-6-803.5, AT THE FIRST APPEARANCE OF A PERSON IN CUSTODY BEFORE
12 ANY COURT FOR THE ALLEGED COMMISSION OF ANY MISDEMEANOR, PETTY
13 OFFENSE, OR MUNICIPAL CODE OFFENSE, THE COURT, AFTER CONSIDERING
14 THE REPORT OF THE PRETRIAL SERVICES PROGRAM DESCRIBED IN SECTION
15 16-4-106, SHALL DETERMINE THE CONDITIONS OF THE PERSON'S RELEASE
16 AND ORDER THE PERSON TO BE RELEASED ON A PERSONAL RECOGNIZANCE
17 BOND AFTER HE OR SHE SIGNS A WRITTEN RELEASE AGREEMENT PURSUANT
18 TO SECTION 16-4-113 (2). IF THE COURT IMPOSES CONDITIONS OF RELEASE
19 IN EXCESS OF THE RECOMMENDATIONS IN THE REPORT OF THE PRETRIAL
20 SERVICES PROGRAM, THE COURT SHALL INCLUDE FINDINGS AND WRITTEN
21 JUSTIFICATIONS FOR SUCH CONDITIONS.

22 ~~(1)~~ (2) At the first appearance of a person in custody ~~before any~~
23 ~~court or any person designated by~~ FOR WHOM the court ~~to~~ OR ANY PERSON
24 DESIGNATED BY THE COURT MUST set bond, the court or person shall
25 determine the type of bond ~~and~~ OR conditions of release unless the person
26 IN CUSTODY is ~~subject to the provisions of~~ INELIGIBLE FOR RELEASE ON
27 BOND PURSUANT TO section 16-4-101.

1 ~~(2)~~ (3) If an indictment, information, or complaint has been filed
2 and the type of bond ~~and~~ OR conditions of release have been fixed upon
3 return of the indictment or filing of the information or complaint, the
4 court shall review the propriety of the type of bond ~~and~~ OR conditions of
5 release upon first appearance of a person in custody.

6 ~~(3)~~ (4) (a) The type of bond ~~and~~ OR conditions of release ~~shall~~
7 MUST be sufficient to reasonably ensure the appearance of the person as
8 required and to protect the safety of any person or the community, taking
9 into consideration the individual characteristics of each person in custody,
10 including the person's financial condition.

11 (b) In determining the type of bond ~~and~~ OR conditions of release,
12 ~~if practicable and available in the jurisdiction, the court shall use an~~
13 ~~empirically developed risk assessment instrument designed to improve~~
14 ~~pretrial release decisions by providing to the court information that~~
15 ~~classifies a person in custody based upon predicted level of risk of pretrial~~
16 ~~failure~~ CONSIDER THE REPORT OF THE PRETRIAL SERVICES PROGRAM
17 DESCRIBED IN SECTION 16-4-106.

18 ~~(4)~~ (5) When the COURT DETERMINES THE type of bond ~~and~~ OR
19 conditions of release ~~are determined by the court~~ FOR A DEFENDANT, the
20 court shall:

21 (a) Presume that all persons in custody are eligible for release on
22 bond with the appropriate and least-restrictive conditions consistent with
23 provisions in paragraph (a) of subsection (3) of this section unless a
24 person is otherwise ineligible for release pursuant to the provisions of
25 section 16-4-101 and section 19 of article II of the Colorado constitution.
26 a monetary condition of release must be reasonable, and any other
27 condition of conduct not mandated by statute must be tailored to address

1 a specific concern.

2 (b) To the extent a court uses a bond schedule, the court shall
3 incorporate into the bond schedule conditions of release and factors that
4 consider the individualized risk and circumstances of a person in custody
5 and all other relevant criteria and not solely the level of offense; and

6 (c) Consider all methods of bond and conditions of release to
7 avoid unnecessary pretrial incarceration and levels of community-based
8 supervision as conditions of pretrial release.

9 ~~(5)~~ (5.5) The court may also consider the following criteria as
10 appropriate and relevant in making a determination of the type of bond
11 ~~and~~ OR conditions of release:

12 (a) The employment status and history of the person in custody;

13 (b) The nature and extent of family relationships of the person in
14 custody;

15 (c) Past and present residences of the person in custody;

16 (d) The character and reputation of the person in custody;

17 (e) Identity of persons who agree to assist the person in custody
18 in attending court at the proper time;

19 (f) The likely sentence, considering the nature and the offense
20 presently charged;

21 (g) The prior criminal record, if any, of the person in custody and
22 any prior failures to appear for court;

23 (h) Any facts indicating the possibility of violations of the law if
24 the person in custody is released without certain conditions of release;

25 (i) Any facts indicating that the defendant is likely to intimidate
26 or harass possible witnesses; and

27 (j) Any other facts tending to indicate that the person in custody

1 has strong ties to the community and is not likely to flee the jurisdiction.

2 (6) ~~When a person is charged with an offense punishable by fine~~
3 ~~only, any monetary condition of release shall not exceed the amount of~~
4 ~~the maximum fine penalty.~~

5 **SECTION 4.** In Colorado Revised Statutes, 16-4-104, **amend** (1)
6 introductory portion as follows:

7 **16-4-104. Types of bond set by the court.** (1) The court shall
8 determine, after consideration of all relevant criteria, which of the
9 following types of bond is appropriate for the pretrial release of a person
10 in custody WHO IS CHARGED WITH A FELONY OR WHO IS OTHERWISE
11 SUBJECT TO BOND, subject to the relevant statutory conditions of release
12 listed in section 16-4-105. The person may be released upon execution of:

13 **SECTION 5.** In Colorado Revised Statutes, **amend** 16-4-106 as
14 follows:

15 **16-4-106. Pretrial services programs.** (1) The chief judge of
16 any judicial district ~~may~~ COURT OR COUNTY COURT SHALL order a person
17 who is eligible for bond or other pretrial release to be evaluated by a
18 pretrial services program established pursuant to this section, which
19 program ~~may~~ SHALL advise the court if the person is bond eligible, may
20 provide information that enables the court to make an appropriate
21 decision on bond ~~and~~ OR conditions of release, and may recommend
22 conditions of release consistent with this section. ~~The chief judge may~~
23 ~~make such order in any or all of the counties of the chief judge's judicial~~
24 ~~district.~~

25 (2) ~~The chief judge of any judicial district shall endeavor to~~
26 ~~consult, on an annual basis, with the county or counties within the judicial~~
27 ~~district in an effort to support and encourage the development by the~~

1 ~~county or counties, to the extent practicable and within available~~
2 ~~resources, of pretrial services programs that support the work of the court~~
3 ~~and evidence-based decision-making in determining the type of bond and~~
4 ~~conditions of release.~~

5 (3) To reduce barriers to the pretrial release of persons in custody
6 whose release ~~on bond~~ with appropriate conditions reasonably assures
7 court appearance and public safety, ~~all counties and cities and counties~~
8 ~~are encouraged to develop~~ ON AND AFTER THE EFFECTIVE DATE OF THIS
9 HOUSE BILL/SENATE BILL 18-_____, ENACTED IN 2018, EACH COUNTY
10 AND EACH CITY AND COUNTY, IN CONSULTATION WITH THE CHIEF JUDGE
11 OF THE JUDICIAL DISTRICT, SHALL IMPLEMENT a pretrial services program
12 ~~in consultation with the chief judge of the judicial district in an effort to~~
13 ~~establish a pretrial services program~~ that may be utilized by the district
14 court of such county or city and county. ~~Any~~ EACH pretrial services
15 program ~~must~~ MAY be established pursuant to a plan formulated by a
16 community advisory board created for such purpose and appointed by the
17 chief judge of the judicial district. Membership on such A community
18 advisory board ~~must~~ MAY include, at a minimum, a representative of a
19 local law enforcement agency, a representative of the district attorney, a
20 representative of the public defender, and a representative of the citizens
21 at large. The chief judge is encouraged to appoint to the community
22 advisory board at least one representative of the bail bond industry who
23 conducts business in the judicial district, which may include a bail
24 bondsman, a bail surety, or other designated bail industry representative.
25 The plan formulated by ~~such~~ A community advisory board ~~must~~ MAY be
26 approved by the chief judge of the judicial district prior to the
27 establishment and utilization of the pretrial services program. The option

1 contained in this section that a pretrial services program be established
2 pursuant to a plan formulated by the community advisory board does not
3 apply to any pretrial services program that existed before May 31, 1991.

4 (4) ~~Any~~ EACH pretrial services program ~~approved pursuant to this~~
5 ~~section~~ must meet the following criteria:

6 (a) The program must establish a procedure for the screening of
7 persons who are detained due to an arrest for the alleged commission of
8 a crime so that such information may be provided to the judge who is
9 setting the bond ~~and~~ OR conditions of release. The program must provide
10 information that provides the court with the ability to make an appropriate
11 initial bond decision that is based upon facts relating to the person's risk
12 of failure to appear for court and risk of danger to the community.

13 (b) The program must make all reasonable attempts to provide the
14 court with such information delineated in this section as is appropriate to
15 each individual person seeking release from custody;

16 (c) The program ~~in conjunction with the community advisory~~
17 ~~board,~~ must make all reasonable efforts to implement an empirically
18 developed pretrial risk assessment tool, to be used by the program, the
19 court, and the parties to the case solely for the purpose of assessing
20 pretrial risk, and a structured decision-making design based upon ~~the~~
21 EACH ACCUSED person's charge and ~~the~~ risk assessment score; and

22 (d) The program must work with all appropriate agencies and
23 assist with all efforts to comply with sections 24-4.1-302.5 and
24 24-4.1-303. ~~C.R.S.~~

25 (5) ~~Any~~ EACH pretrial services program ~~may also~~ MUST include
26 different methods and levels of community-based supervision as a
27 condition of release, and the program must use established methods for

1 persons who are released prior to trial in order to decrease unnecessary
2 pretrial detention. The program may include, but is not limited to, any of
3 the criteria ~~as outlined~~ in section 16-4-105 (8) as conditions for pretrial
4 release.

5 (6) Commencing July 1, 2012, each pretrial services program
6 established pursuant to this section ~~shall~~ MUST provide an annual report
7 to the judicial department no later than November 1 of each year,
8 regardless of whether the program existed prior to May 31, 1991.
9 Notwithstanding section 24-1-136 (11)(a)(I), the judicial department shall
10 present an annual combined report to the house and senate judiciary
11 committees of the house of representatives and the senate, or any
12 successor committees, of the general assembly. The report to the judicial
13 department FROM EACH PRETRIAL SERVICES PROGRAM must include, but
14 is not limited to, the following information:

15 (a) The total number of pretrial assessments performed by the
16 PRETRIAL SERVICES program and submitted to ~~the~~ EACH DISTRICT COURT
17 AND COUNTY court;

18 (b) The total number of closed cases by the PRETRIAL SERVICES
19 program in which the person was released from custody and supervised
20 by the program;

21 (c) The total number of closed cases in which the person was
22 released from custody, was supervised by the PRETRIAL SERVICES
23 program, and, while under supervision, appeared for all scheduled court
24 appearances on the case;

25 (d) The total number of closed cases in which the person was
26 released from custody, was supervised by the PRETRIAL SERVICES
27 program, and was not charged with a new criminal offense that was

1 alleged to have occurred while under supervision and that carried the
2 possibility of a sentence to jail or imprisonment;

3 (e) The total number of closed cases in which the person was
4 released from custody and was supervised by the PRETRIAL SERVICES
5 program, and the person's bond was not revoked by the court due to a
6 violation of any other terms and conditions of supervision; and

7 (f) Any additional information the judicial department may
8 request.

9 (7) For the reports required in subsection (6) of this section, ~~the~~
10 EACH pretrial services program shall include information detailing the
11 number of persons released on a commercial surety bond in addition to
12 pretrial supervision, the number of persons released on a cash, private
13 surety, or property bond in addition to pretrial supervision, and the
14 number of persons released on any form of a personal recognizance bond
15 ~~in addition to~~ WITH CONDITIONS OF pretrial supervision BUT NO
16 MONETARY CONDITION OF BOND.

17 **SECTION 6.** In Colorado Revised Statutes, **amend** 16-4-107 as
18 follows:

19 **16-4-107. Hearing after setting of monetary conditions of**
20 **bond.** (1) (a) EXCEPT AS DESCRIBED IN SUBSECTION (1)(b) OF THIS
21 SECTION, if a person is in custody and the court imposed a monetary
22 condition of bond for release, and the person, after seven days from the
23 setting of the monetary condition of bond, REMAINS IN CUSTODY BECAUSE
24 HE OR SHE is unable to meet the monetary obligations of the bond, the
25 person may file a written motion for reconsideration of the monetary
26 conditions of the bond. The person may only file the written motion
27 pursuant to this section one time during the pendency of the case and may

1 only file the written motion if he or she believes that, upon presentation
2 of evidence not fully considered by the court, he or she is entitled to a
3 personal recognizance bond or an unsecured bond with conditions of
4 release or a change in the monetary conditions of bond. the court shall
5 promptly conduct a hearing on this motion for reconsideration, but the
6 hearing must be held within fourteen days after the filing of the motion.
7 However, the court may summarily deny the motion if the court finds that
8 there is no additional evidence not fully considered by the court presented
9 in the written motion. In considering the motion, the court shall consider
10 the results of any empirically developed risk assessment instrument.

11 (b) IN ANY CASE IN WHICH THE COURT IMPOSED A MONETARY
12 CONDITION OF BOND FOR RELEASE BASED ON A BOND SCHEDULE AND THE
13 PERSON REMAINS IN CUSTODY BECAUSE HE OR SHE IS UNABLE TO MEET THE
14 MONETARY OBLIGATIONS OF THE BOND, THE COURT SHALL CONDUCT A
15 HEARING TO RECONSIDER THE MONETARY CONDITION OF THE BOND AT THE
16 PERSON'S ARRAIGNMENT OR AFTER FIVE DAYS, WHICHEVER IS SOONER. IN
17 RECONSIDERING THE MONETARY CONDITION OF THE BOND, THE COURT
18 SHALL CONSIDER THE RESULTS OF ANY EMPIRICALLY DEVELOPED
19 RISK-ASSESSMENT INSTRUMENT.

20 (2) Nothing in this section ~~shall preclude~~ PRECLUDES a person
21 from filing a motion for relief from a monetary condition of bond
22 pursuant to section 16-4-109 at any time during the pendency of the case.

23 **SECTION 7.** In Colorado Revised Statutes, 16-4-109, **amend** (1)
24 as follows:

25 **16-4-109. Reduction or increase of monetary conditions of**
26 **bond - change in type of bond or conditions of bond - definitions.**

27 (1) Upon application by the district attorney or the defendant, OR

1 PURSUANT TO AN AUTOMATIC HEARING FOR RECONSIDERATION PURSUANT
2 TO SECTION 16-4-107 (1), the court before which the proceeding is
3 pending may increase or decrease the financial conditions of bond, may
4 require additional security for a bond, may dispense with security
5 theretofore provided, or may alter any other condition of the bond.

6 **SECTION 8.** In Colorado Revised Statutes, **amend** 16-4-113 as
7 follows:

8 **16-4-113. No monetary bond in misdemeanor cases - signed**
9 **release agreements.** (1) ~~In exercising the discretion mentioned in section~~
10 ~~16-4-104, the judge~~ EXCEPT AS PROVIDED OTHERWISE IN THIS PART 1, A
11 COURT shall release ~~the~~ AN accused person upon personal recognizance
12 if the charge is a ~~class-3~~ misdemeanor or a petty offense, or any
13 unclassified offense for a violation of which the maximum penalty does
14 not exceed ~~six~~ EIGHTEEN months' imprisonment, and ~~he or she shall not~~
15 ~~be required~~ THE COURT SHALL NOT REQUIRE THE PERSON to supply a
16 surety bond, or give security of any kind for his or her appearance for trial
17 other than his or her personal recognizance ~~unless one or more of the~~
18 ~~following facts are found to be present:~~ AND THE COMPLETION OF A
19 SIGNED RELEASE AGREEMENT AS DESCRIBED IN SUBSECTION (2) OF THIS
20 SECTION.

21 ~~(a) The arrested person fails to sufficiently identify himself or~~
22 ~~herself; or~~

23 ~~(b) The arrested person refuses to sign a personal recognizance;~~
24 ~~or~~

25 ~~(c) The continued detention or posting of a surety bond is~~
26 ~~necessary to prevent imminent bodily harm to the accused or to another;~~
27 ~~or~~

1 ~~(d) The arrested person has no ties to the jurisdiction of the court~~
2 ~~reasonably sufficient to assure his or her appearance, and there is~~
3 ~~substantial likelihood that he or she will fail to appear for trial if released~~
4 ~~upon his or her personal recognizance; or~~

5 ~~(e) The arrested person has previously failed to appear for trial for~~
6 ~~an offense concerning which he or she had given his written promise to~~
7 ~~appear; or~~

8 ~~(f) There is outstanding a warrant for his or her arrest on any other~~
9 ~~charge or there are pending proceedings against him or her for suspension~~
10 ~~or revocation of parole or probation.~~

11 (2) A DEFENDANT WHO IS CHARGED WITH AN OFFENSE OTHER
12 THAN A FELONY MAY NOT BE RELEASED FROM CUSTODY UNDER HIS OR HER
13 OWN RECOGNIZANCE UNTIL HE OR SHE SIGNS AND FILES WITH THE CLERK
14 OF THE COURT OR OTHER DESIGNATED PERSON A WRITTEN RELEASE
15 AGREEMENT THAT INCLUDES:

16 (a) THE DEFENDANT'S PROMISE TO APPEAR AT ALL TIMES AND
17 PLACES, AS ORDERED BY THE COURT;

18 (b) THE DEFENDANT'S PROMISE TO OBEY ALL CONDITIONS IMPOSED
19 BY THE COURT;

20 (c) THE DEFENDANT'S PROMISE TO NOT LEAVE THE STATE WITHOUT
21 THE PERMISSION OF THE COURT;

22 (d) AN AGREEMENT BY THE DEFENDANT TO WAIVE EXTRADITION
23 IF HE OR SHE FAILS TO APPEAR AS REQUIRED AND IS APPREHENDED
24 OUTSIDE COLORADO; AND

25 (e) THE ACKNOWLEDGMENT OF THE DEFENDANT THAT HE OR SHE
26 HAS BEEN INFORMED OF THE CONSEQUENCES AND PENALTIES APPLICABLE
27 TO VIOLATION OF THE CONDITIONS OF RELEASE.

1 **SECTION 9.** In Colorado Revised Statutes, 16-4-203, **amend** (4)
2 as follows:

3 **16-4-203. Appeal bond hearing - order.** (4) Upon written
4 motion of the state or the defendant, OR PURSUANT TO AN AUTOMATIC
5 HEARING FOR RECONSIDERATION PURSUANT TO SECTION 16-4-107(1), the
6 sentencing court may increase or reduce the amount of appeal bond, alter
7 the security for or conditions of the appeal bond, or revoke the appeal
8 bond. Notice of hearing on the motion ~~shall~~ **MUST** be given in the manner
9 provided in ~~section 16-4-107~~ SECTION 16-4-109.

10 **SECTION 10.** In Colorado Revised Statutes, 19-2-509, **amend**
11 (6) as follows:

12 **19-2-509. Bail.** (6) EXCEPT AS DESCRIBED IN SECTION 16-4-113,
13 the court may order that any personal recognizance bond be secured by
14 the personal obligation of the juvenile and his or her parents, guardian,
15 legal custodian, or other responsible adult.

16 **SECTION 11.** In Colorado Revised Statutes, 24-4.1-302, **amend**
17 (2)(c)(I)(E) as follows:

18 **24-4.1-302. Definitions.** As used in this part 3, and for no other
19 purpose, including the expansion of the rights of any defendant:

20 (2) "Critical stages" means the following stages of the criminal
21 justice process:

22 (c) (I) Any court action involving a bond reduction or
23 modification at which the following occurs:

24 (E) In a case involving a capital offense, the court grants the
25 defendant's motion for admission to bail pursuant to ~~section 16-4-101(3)~~,
26 ~~C.R.S.~~ SECTION 16-4-101 (4); or

1 **SECTION 12. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2018 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.