

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

## **Members of the Committee**

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Representative Adrienne Benavidez, Vice-Chair

Senator Larry W. Crowder  
Senator Rhonda Fields

Representative Susan Beckman  
Representative Dafna Michaelson Jenet

## **Legislative Council Staff**

Julia Jackson, Senior Research Analyst  
Juliann Jenson, Research Analyst  
Chris Creighton, Fiscal Analyst

## **Office of Legislative Legal Services**

Richard Sweetman, Senior Attorney

***November 2017***



# County Courthouse and County Jail Funding and Overcrowding Solutions Interim Study Committee Report

## Committee Charge

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The County Courthouse and County Jail Funding and Overcrowding Solutions Interim Study Committee (committee) was created pursuant to Interim Committee Request Letter 2017-15, as approved by the Legislative Council on April 28, 2017. The committee was charged with studying the costs of county courthouses and jails and the availability of funding for these facilities on both the state and local level. The committee was also charged with reviewing jail overcrowding and factors that cause it, including but not limited to, addiction and mental health issues facing inmates, and sentencing policies that affect jail populations.

## Committee Activities

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During the 2017 interim, the committee met five times and took one field trip. At the meetings, the committee heard presentations from, and engaged in discussion with, representatives of various entities involved in the state and local criminal justice system. These presentations and discussions covered a wide range of topics associated with county courthouses and jails, including probation and parole; bail; pretrial services; health care costs and Medicaid eligibility for inmates; transportation issues; building maintenance; criminal justice coordinating councils; cash funds; community corrections; reminders for court hearings; and reimbursement rates. Entities that presented to the committee included:

- Colorado Counties, Inc.;
- the Colorado Department of Corrections;
- the Colorado Department of Human Services, including the Office of Behavioral Health;
- the Colorado District Attorneys' Council;
- the Colorado Judicial Branch, including the Office of the State Court Administrator and Division of Probation;
- the Colorado Municipal League;
- county governments;
- the County Sheriffs of Colorado;
- the Colorado State Board of Parole;
- History Colorado;
- the National Center for State Courts;
- the National Conference of State Legislatures; and
- the Office of the Colorado State Public Defender.

The committee heard public testimony at the meetings and spent time during the meetings undertaking organizational activities and considering draft legislation. Eleven bills and one resolution were drafted at the request of the committee. Two bills were withdrawn by the members, and the committee ultimately approved three bills and one resolution. Topics covered and bills recommended by the committee are discussed below.

**State financial assistance for county jails and courthouses.** The committee heard from county commissioners and county sheriffs about the challenges counties face in funding jail and courthouse facilities. Though county courts are a function of the state with state employees, counties are required to provide and pay for the maintenance of court facilities. The committee requested, but did not recommend, a bill to gradually transfer the fiscal responsibility for providing court facilities in each county away from the counties to the state.

The committee heard presentations about the Court Security Cash Fund and the Underfunded Courthouse Facility Cash Fund, both of which provide state funds to county court facilities. The Underfunded Courthouse Facility Cash Fund makes grants available to counties for master planning services, matching funds or leverage grant funding opportunities, or emergency needs. There currently is no similar fund for jails. The committee recommends **Bill A**, which renames the fund and expands it to include jails. Additionally, the bill makes changes to allowable grant funding under the program and transfers \$30 million from the General Fund to the commission cash fund annually for five years.

The Court Security Cash Fund is funded by a \$5 surcharge on certain docket and filing fees. A commission awards grants from the fund to counties for court security equipment, training, and emergency security needs. The committee requested, but did not recommend, a bill to increase the Court Security Cash Fund surcharge from \$5 to \$10 and allocate the new revenue to the county that collected the fee.

**State inmates in county jails.** The committee heard from the Department of Corrections (DOC) and the counties about DOC inmates housed in county jails. The department discussed its efforts to reduce prison backlogs that can increase county jail populations. They also discussed the rate at which the DOC reimburses counties for housing DOC inmates. For FY 2017-18, this rate was \$54.39 per day, beginning after 72 hours. The reimbursement rate is established in the general appropriations bill. County sheriffs testified that the DOC daily reimbursement rate does not adequately cover the costs of housing these inmates. In response to these discussions, the committee recommends **Bill B**, which establishes the reimbursement rate in statute at \$108.78 per day.

**Pretrial detention.** The committee heard about many model programs to reduce the number of inmates in jail awaiting trial. Pretrial services programs collect and analyze defendant information for use in determining risk, make recommendations to the court concerning conditions of release, and supervise defendants who are released from secure custody while awaiting trial. Currently, 15 of Colorado's 64 counties have a pretrial services program. The committee requested, but did not recommend, a bill to reform pretrial criminal procedures. The bill would have required each county to implement a pretrial services program and prohibited the use of monetary bonding except for certain defendants.

Once defendants are released, courts often struggle to get them to appear for their hearings. Under current law, failure to appear in district or county court often results in the issuance of a bench warrant that comes with jail time. The committee requested, but did not recommend, a bill to require the State Court Administrator to administer a division to remind criminal defendants to appear in court as scheduled.

Incarcerated defendants are routinely required to appear at court hearings, some of which are short and procedural in nature. Transporting an inmate to a hearing can result in a considerable expense to local jurisdictions. Additionally, court dockets around the state tend to be overly full, jeopardizing legal requirements for speedy trials. In response to concerns about cost and timeliness, the committee recommends **Bill C**, which concerns a program to facilitate conducting judicial proceedings via networking technology.

**Parole violations.** The committee heard from counties and the Colorado State Board of Parole about inmates who are in county jails because they have violated the terms of their parole. There are often delays in adjudicating these violations. The parole board currently consists of seven members who travel around the state to conduct application interviews, as well as rescission and revocation hearings. The board determines parole suitability and sets conditions of parole. The committee requested but withdrew a bill to increase the number of parole board members from seven to nine.

In Colorado, offenders are sentenced to a period of parole based on the crime classification of the controlling sentence. Additionally, a risk assessment tool is used to predict the likelihood that an offender will be rearrested or charged with a new crime upon release. The committee requested but withdrew a bill to base the length of mandatory parole on the results of a risk assessment rather than the crime committed. This bill would also have eliminated discretionary parole.

**Health care costs in county jails.** The committee heard concerns from counties about high health care costs in their jails. This is in part because current federal law prohibits federal matching funds under Medicaid for persons who are incarcerated. However, there is an exception for persons admitted to a hospital or mental health facility for more than 24 hours and who are otherwise eligible for Medicaid. The committee requested, but did not recommend, a bill requiring the state Department of Health Care Policy and Financing to implement a program that allows county jails to apply for the reimbursement of uncovered inmate medical costs.

The committee recommends **Joint Resolution A**, which urges the United States Congress to amend the law concerning Medicaid eligibility to include persons who are detained in state and local facilities, but who have not been convicted of a crime.

**Criminal justice coordinating councils.** A criminal justice coordinating council (CJCC) is the general term used to describe a body of elected and other justice system leaders that convene on a regular basis to coordinate systemic responses to justice problems in a county or judicial district. Currently, there are CJCCs in eight Colorado counties, and current law does not prohibit them from forming. The committee heard about the benefits of CJCCs and requested, but did not recommend, a bill authorizing parties to form a CJCC in each county or judicial district and providing grant funds to do so.

**Field trip.** In August, the committee visited the Arapahoe County Detention Center and learned about the facility's programs and needs.

## **Committee Recommendations**

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As a result of committee discussion, the committee recommends three bills and one resolution for consideration in the 2018 legislative session.

**Bill A — Financial Assistance for County Jails and Courts.** Bill A expands the responsibilities of the Underfunded Courthouse Facility Cash Fund Commission to include considering grants for jail construction or renovation in addition to grants for improvements to court facilities. The bill also changes the name of the commission to the Underfunded Court and Jail Facility Cash Fund Commission. The bill makes changes to allowable grant funding under the program, including allowing grants to be issued for up to 50 percent of a county's annual voter-approved debt service and creating a low-interest loan program to finance court and jail facility capital construction. Finally, the bill sets a five-year annual transfer of \$30 million a year from the General Fund to the commission cash fund.

**Bill B — Increase DOC Reimbursement to County Jails.** The DOC reimburses a portion of the expenses and costs incurred by counties and city and counties for housing DOC inmates. Bill B discontinues the General Assembly's current annual rate-setting process and permanently sets this reimbursement rate in statute at \$108.78 per person per day.

**Bill C — Court System for Remote Participation in Hearings.** Bill C requires the Division of Criminal Justice in the Colorado Department of Public Safety to consult with the Office of the State Court Administrator in the Judicial Branch to operate a telejustice program that is internet based to allow county and district courts to conduct judicial hearings with remote participation. The bill also sets forth a timeline to solicit requests for proposals, requires the promulgation of rules regarding program administration, and requires the Public Utilities Commission to identify areas of the state lacking in internet capability and make associated recommendations.

**Joint Resolution A — Medicaid Eligibility Detained Individuals.** Joint Resolution A urges the United States Congress to amend the law concerning Medicaid eligibility of incarcerated individuals so that persons who are detained in the state and local facilities but who have not been convicted of a crime retain their Medicaid eligibility until conviction.