



## Fiscal Note

### Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

## HB 25-1276: COURT ACTIONS RELATED TO FAILURE TO APPEAR

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**Prime Sponsors:**

Rep. Soper; Bird  
Sen. Roberts; Frizell

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**Fiscal note status:** The fiscal note reflects the introduced bill.

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### Summary Information

**Overview.** The bill allows a court to issue a monetary bond for certain low level offenses when a person fails to appear in court two to three times in the same case.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- Local Government

**Appropriations.** For FY 2025-26, the bill requires an appropriation of \$206,853 to the Judicial Department.

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**Table 1**  
**State Fiscal Impacts**

<b>Type of Impact<sup>1</sup></b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>
State Revenue	\$0	\$0
State Expenditures	\$250,503	\$245,835
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	2.1 FTE	2.2 FTE

<sup>1</sup> Fund sources for these impacts are shown in the tables below.

**Table 1A**  
**State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>
General Fund	\$206,853	\$200,331
Cash Funds	\$0	\$0
Federal Funds	\$0	\$0
Centrally Appropriated	\$43,650	\$45,504
<b>Total Expenditures</b>	<b>\$250,503</b>	<b>\$245,835</b>
<b>Total FTE</b>	<b>2.1 FTE</b>	<b>2.2 FTE</b>

## Summary of Legislation

Under current law, a court must issue a personal recognizance bond when:

- the person is accused of a misdemeanor offense for which the maximum penalty does not exceed six months imprisonment, unless specific circumstances exist; or
- if the person is charged with a traffic offense, a petty offense, or a comparable municipal offense, unless specific circumstances exist.

The bill allows the court to issue a monetary bond in these cases when a defendant has previously failed to appear for a court proceeding two or more times.

The bill also removes a current prohibition on monetary bond for petty offenses if the petty offense is for theft, criminal mischief, arson, or a comparable municipal offense and the defendant has failed to appear at least two times. If a defendant is charged with a different petty offense, or a traffic offense or a municipal offense without a state analog, then monetary bond is allowed if the defendant has failed to appear at least three times and has another pending case for the same offense.

A failure to appear only applies if a court:

- conducted a search to determine if the defendant was being held in a correctional facility or jail before issuing the failure to appear warrant;
- had a process to quash a warrant if a defendant engages to correct a failure to appear before their next hearing, and to excuse the failure to appear if there is evidence showing that the failure was not willful or caused by excusable neglect; and
- posted the processes online and at the courthouse in both English and Spanish.

## State Expenditures

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The bill increases state expenditures in the Judicial Department by about \$250,000 per year starting in FY 2025-26. These costs, paid from the General Fund, are summarized in Table 2 and discussed below. The bill also minimally affects workload in the offices that represent indigent persons.

**Table 2**  
**State Expenditures**  
**Judicial Department**

<b>Cost Component</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>
Personal Services	\$188,838	\$195,421
Operating Expenses	\$4,015	\$4,110
Capital Outlay Costs	\$14,000	\$800
Centrally Appropriated Costs	\$43,650	\$45,504
<b>Total Costs</b>	<b>\$250,503</b>	<b>\$245,835</b>
<b>Total FTE</b>	<b>2.1 FTE</b>	<b>2.2 FTE</b>

### Judicial Department

Starting in FY 2025-26, the department requires 0.4 FTE magistrate to oversee longer bond hearings and to make determinations, and 1.8 FTE court clerk staff to conduct searches before a court orders a warrant for failure to appear, to support longer bond hearings, and to assist individuals in filing for a continuance and requests for excuses for a failure to appear. Costs are based on Judicial Department case data from 2022 to 2024. First year costs are prorated for an August effective date.

#### Failure to Appear Determinations

There are about 5,000 bond hearings per year where the top charge is a petty offense, traffic offense, or a low-level misdemeanor, and there was at least one warrant for failure to appear issued in the case. The fiscal note assumes that an additional 5 minutes per case is required to determine if a prior failure to appear would count as a failure to appear under the bill. This results in the need for 0.2 FTE magistrate, and 0.4 FTE court clerk to support the court at a 2:1 ratio.

The bill also requires a determination on whether a court should accept a defendant's request to excuse their absence and not count it as a failure to appear. There are about 20,260 failure to appear warrants issued per year where the top charge is a petty offense, traffic offense, or low-level misdemeanor. The fiscal note assumes that 50 percent of defendants in these cases will request an excused absence and that it will take 1 minute to rule on the request, resulting in the need for 0.1 FTE magistrate. An additional 0.5 FTE court clerk is required to assist defendants in applying for an excuse for failure to appear, assuming 5 minutes per request.

In addition, using the 20,260 failure to appear warrants per year, staff will be required to perform a record search before a failure to appear warrant is issued by the court, which is assumed to require 3 minutes per case, resulting in the need for 0.4 FTE court clerk.

## Continuances

Finally, the bill increases decisions on whether continuances should be granted. There are 143,800 hearings a year where the top charge is a petty offense, traffic offense, or low-level misdemeanor. The fiscal note assumes that 10 percent will request a continuance, which will take 1 minute per case, resulting in the need for 0.1 FTE magistrate. An additional 0.5 FTE court clerk is required to assist defendants in applying for continuances, assuming 5 minutes per request.

## Offices that Represent Indigent Persons

The bill increases workload to the offices that represent indigent persons within the Judicial Department to attend longer bond hearings. The fiscal note assumes this workload increase can be absorbed within existing resources.

## Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which may include employee insurance, supplemental employee retirement payments, leased space, and indirect cost assessments, are shown in the expenditure table above.

## Local Government

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Similar to the state, workload in district attorney offices will increase to attend longer bond hearings to determine if an individual has prior failure to appear warrants. In addition, if more individuals are held in jail instead of being released prior to trial, costs to jails will increase. The fiscal note assumes these costs will be minimal.

Expenditures in municipal courts will also increase due to longer bond hearings, and to establish processes regarding failure to appear requirements. The exact increase will depend on the individual municipal court.

## Effective Date

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The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to offenses on or after this date.

## **State Appropriations**

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For FY 2025-26, the bill requires a General Fund appropriation of \$206,853 to the Judicial Department, and 2.1 FTE.

## **State and Local Government Contacts**

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District Attorneys

Sheriffs

Judicial