



**Colorado
Legislative
Council
Staff**

Bill 2

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 18-0244
Prime Sponsor(s):

Date: October 19, 2017
Bill Status: County Courthouse and County Jail
Funding and Overcrowding
Solutions Interim Study Committee
Bill Request

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BILL TOPIC: REFORM PRETRIAL RISK ASSESSMENT AND BONDING

Fiscal Impact Summary	FY 2018-2019	FY 2019-2020
State Revenue Cash Funds	Revenue decrease.	
State Expenditures General Fund	Workload and cost impact. See State Expenditures section.	
Future Year Impacts: Ongoing workload impact.		

Summary of Legislation

Under this bill, ***requested by the County Courthouse and County Jail Funding and Overcrowding Solutions Interim Study Committee***, a defendant arrested and charged with a misdemeanor, petty offense, or municipal code violation cannot be required to post monetary bail as a condition of being discharged on bond. However, misdemeanor acts of domestic violence, third degree assault, and protection order violations may still have a cash bond imposed. For defendants who are eligible to be released, a hearing must be held within 48 hours to determine the bond or conditions of release. If monetary obligations are part of a defendant's conditions of bond and the defendant remains in custody because he or she is unable to post the monetary bond, the court must conduct a hearing to reconsider the monetary bond at the arraignment or after five days, whichever is sooner.

Under current law, counties are encouraged, but not required to establish and utilize pretrial services programs. This bill requires each county to establish a pretrial services program and requires the court to consider the pretrial services report at the first appearance of a defendant arrested for a misdemeanor, petty offense, or municipal code violation. Misdemeanor acts of domestic violence, third degree assault, and protection order violations are excluded. After reviewing the pretrial services report, the court must determine the conditions of the defendant's release and order the defendant to be released on a personal recognizance bond (PR bond). To be released on PR bond, a defendant must sign and file with the court clerk a written release agreement.

Background

Pretrial services programs can be established and used by county and district courts to identify low-risk offenders who can be released from county jail between the period of arrest and the disposition of the case by the court. Where pretrial services programs exist, defendants are evaluated upon arrest to determine if they are suitable for being released and what, if any, conditions should be set as part of his or her release. Those who are released are monitored to ensure compliance with any conditions established. At the time of this writing, 15 counties of Colorado's 64 counties have a pretrial services program.

State Revenue

Beginning in FY 2018-19, the elimination of cash bonds for misdemeanors and petty offenses will reduce state cash fund revenue from bond forfeitures. Because cash bonds may still be imposed for all other criminal offenses, the exact impact of eliminating cash bonds for misdemeanors and petty offenses has not been estimated, but is not expected to be significant.

State Expenditures

Beginning in FY 2018-19, this bill impacts workload and costs for the Judicial Department agencies as described below.

Judicial Department. This bill impacts Judicial Department workload and costs in several ways. First, by requiring an initial bond hearing within 48 hours of arrest, rather than the 96 hours under current law, trial court workload and costs are increased. To the extent that initial bond hearings are held on the weekend to meet the bill's required initial bond hearing time frame, workload and costs may further increase. Second, this bill increases workload and costs by requiring an automatic hearing if a defendant is unable to post monetary bond. Third, by eliminating monetary bonds for most misdemeanor, petty offense, and municipal code violations, this bill will reduce workload and costs by eliminating bond reconsideration hearings for these cases which may be conducted under current law. Overall, this bill is expected to increase the number of bond hearings, however this impact cannot be estimated and will vary by judicial district; any change in appropriations resulting from this bill will be addressed through the annual budget process.

To the extent that probation staff are required to assist with the provision of pretrial services in counties that do not have pretrial services, workload and costs will increase. This could include assisting with the development of new pretrial services programs, providing information regarding defendants to new pretrial services programs, and monitoring defendants. The impact of this additional workload has not been estimated as of this writing.

Office of the State Public Defender and Office of the Alternate Defense Counsel. This bill potentially increases Office of the State Public Defender and Office of the Alternate Defense Counsel workload and costs to counsel indigent offenders at initial bond hearings and subsequent bond reconsideration hearings if monetary bond conditions are unable to be met in felony, misdemeanor acts of domestic violence, third degree assault, and protection order violation cases. However, the number of defendants that automatically qualify for representation by remaining in custody due to their inability to post a monetary bond may reduce, which could result in a workload decrease. Overall, the net impact is expected to be minimal and not require a change in appropriations for either office.

Local Government Impact

Overall, this bill is expected to decrease local government revenue and increase local government costs as described below. The exact impact will vary by county depending on the number of arrests and hearings, existing court schedules, and whether a pretrial services program already exists in the county.

Counties. Costs are increased in counties that do not currently have pretrial services programs. The exact cost to create a pretrial services program will vary by county depending on staffing levels, travel requirements, and the number of defendants served, but are expected to range between \$200,000 and \$1,500,000 per year. These costs will be partially offset by revenue from pre-trial services supervision fees which are expected to range from \$10 to \$20 per month and typically include a one-time initial fee, per person supervised. These fees are established by each respective board of county commissioners.

County jails. To the extent that eliminating monetary bonds and creating pretrial services in counties that do not currently have such a program 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 and requiring the consideration of pretrial services reports, this bill potentially increases county jail costs from municipal code offenders. Under current law, municipal code offenders may be cited or released on a monetary bond without being booked into jail. The average cost to house an offender in county jail ranges from \$53 to \$114 per day, per offender and the net impact will vary by county.

Denver County Court. Similar to the state, this bill impacts Denver County Court revenue and workload and costs by increasing the number of bond hearings that are likely to be held. In addition, the requirement to hold a bond hearing within 48 hours of arrest may require holding weekend bond court proceedings which will further increase costs.

District attorneys. By increasing the number of bond hearings this bill is expected to increase District Attorney workload and may require an increase in FTE. Specifically, DA workload is increased to file motions to prevent the release of certain defendants deemed to be a threat to public safety on bond. Workload also increases to be present at initial and bond reconsideration hearings, which may occur on weekends due to the bill's bond hearing time frame.

Sheriffs. By requiring initial bond hearings within 48 hours of arrest and automatic monetary bond reconsideration hearings in felony, misdemeanor acts of domestic violence, third degree assault, and protection order violation cases where defendants are unable to meet monetary bond conditions, this bill is expected to increase county sheriff costs for transportation and workload for providing court security. Transportation costs will increase to transport offenders arrested in a different jurisdiction to the county in time to hold the 48-hour bond hearing. By increasing the number of bond hearings that are likely to occur this bill also increases county sheriff court security costs to provide security at these hearings.

Municipalities. The elimination of cash bonds for municipal code violations will reduce municipal fee revenue from such bonds.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 09, 2018, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

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Information Technology
Municipalities
Sheriffs

Counties
Judicial
Public Defender

District Attorneys
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Public Safety