

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-1189.01 Michael Dohr x4347

HOUSE BILL 17-1338

HOUSE SPONSORSHIP

Bridges and Liston,,

SENATE SPONSORSHIP

Marble and Kagan,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT FOR A TIMELY HEARING FOR A
102 DEFENDANT IN JAIL WITH A MUNICIPAL COURT HOLD.

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>.)

If a person is detained in a jail on a municipal hold and does not immediately receive a personal recognizance bond, the jail shall promptly notify the municipal court of the hold or, if the municipal hold is the sole basis for the person's detention, notify the municipal court of the hold within 4 hours. Once a demanding municipal court receives the notice that its hold is the sole basis for the detention, the court shall transfer the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

defendant for a hearing within 2 days of receiving the notice; except that if the defendant has failed to appear at least twice in the case and the jail is in a different county than the county where the municipality is located, the demanding municipal court shall transfer the defendant for a hearing within 4 days. At the hearing the municipal court must either:

- ! Arraign the defendant; or
- ! If the defendant is being held for failure to appear, conduct the proceedings related to the failure to appear unless the proceeding is a trial or evidentiary hearing or requires the presence of a witness.

If the case is not resolved at the hearing, the municipal court shall conduct a bond hearing and release the defendant on bond under the least restrictive conditions possible. If the defendant is not brought before the municipal court within the required time limits, the jail holding the defendant shall release the defendant on an unsecured personal recognizance bond with no other conditions returnable to the municipal court. A municipal court shall adopt standing orders to effectuate the defendant's release if the defendant is not transferred to the municipal court within the required time frames.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 13-10-111.5 as
3 follows:

4 **13-10-111.5. Notice to municipal courts of municipal holds.**

5 (1) IF A PERSON IS DETAINED IN A JAIL ON A MUNICIPAL HOLD AND DOES
6 NOT IMMEDIATELY RECEIVE A PERSONAL RECOGNIZANCE BOND, THE JAIL
7 SHALL PROMPTLY NOTIFY THE MUNICIPAL COURT OF ANY MUNICIPAL
8 HOLD; EXCEPT THAT, IF THE MUNICIPAL HOLD IS THE SOLE BASIS TO DETAIN
9 THE PERSON, THE JAIL SHALL NOTIFY THE MUNICIPAL COURT OF THE
10 MUNICIPAL HOLD WITHIN FOUR HOURS.

11 (2) ONCE A MUNICIPAL COURT RECEIVES NOTICE THAT THE
12 DEFENDANT IS BEING HELD SOLELY ON THE BASIS OF A MUNICIPAL HOLD,
13 THE MUNICIPAL COURT SHALL TRANSFER THE INCARCERATED DEFENDANT
14 TO THE COURT FOR A HEARING WITHIN TWO CALENDAR DAYS, EXCLUDING

1 SUNDAYS AND FEDERAL HOLIDAYS; EXCEPT THAT, IF THE DEFENDANT HAS
2 FAILED TO APPEAR IN THAT CASE AT LEAST TWICE AND THE DEFENDANT IS
3 INCARCERATED IN A COUNTY DIFFERENT FROM THE COUNTY WHERE THE
4 DEMANDING MUNICIPAL COURT IS LOCATED, THE DEMANDING MUNICIPAL
5 COURT SHALL TRANSFER THE INCARCERATED DEFENDANT TO THE COURT
6 FOR A HEARING WITHIN FOUR CALENDAR DAYS, EXCLUDING SUNDAYS AND
7 FEDERAL HOLIDAYS.

8 (3) (a) AT THE HEARING REQUIRED IN SUBSECTION (2) OF THIS
9 SECTION, THE MUNICIPAL COURT SHALL EITHER:

10 (I) ARRAIGN THE DEFENDANT; OR

11 (II) IF THE DEFENDANT WAS ARRESTED FOR FAILURE TO APPEAR,
12 CONDUCT THE PROCEEDINGS FOR WHICH THE DEFENDANT FAILED TO
13 APPEAR, UNLESS THAT PROCEEDING IS A TRIAL OR AN EVIDENTIARY
14 HEARING OR REQUIRES THE PRESENCE OF A WITNESS.

15 (b) IF THE CASE IS NOT RESOLVED AT THIS HEARING, THE
16 MUNICIPAL COURT SHALL IMMEDIATELY CONDUCT A BOND HEARING TO
17 CONSIDER AND SET THE LEAST RESTRICTIVE CONDITIONS, IF ANY, FOR THE
18 DEFENDANT'S RELEASE ON BOND.

19 (4) IF THE DEFENDANT IS NOT BROUGHT BEFORE THE MUNICIPAL
20 COURT FOR A HEARING WITHIN THE TIME FRAMES REQUIRED BY
21 SUBSECTION (2) OF THIS SECTION, THE JAIL HOLDING THE DEFENDANT
22 SHALL RELEASE THE DEFENDANT ON AN UNSECURED PERSONAL
23 RECOGNIZANCE BOND WITH NO OTHER CONDITIONS RETURNABLE TO THE
24 MUNICIPAL COURT. THIS SUBSECTION (4) DOES NOT APPLY IF THE
25 DEFENDANT REFUSED TO COOPERATE WITH THE COURT'S ATTEMPTS TO
26 HOLD THE HEARING IN COMPLIANCE WITH SUBSECTION (2) OF THIS
27 SECTION.

1 (5) EACH MUNICIPAL COURT SHALL ADOPT STANDING ORDERS TO
2 IMPLEMENT SUBSECTION (4) OF THIS SECTION AND SHALL PROVIDE THE
3 ORDERS TO EACH JAIL IN THE COUNTY WHERE THE MUNICIPAL COURT IS
4 LOCATED. IN EVERY ARREST WARRANT ISSUED BY A MUNICIPAL COURT,
5 THE MUNICIPAL COURT SHALL ORDER THAT THE DEFENDANT BE RELEASED
6 ON A PERSONAL RECOGNIZANCE BOND WITH NO OTHER CONDITIONS IF THE
7 DEFENDANT IS NOT TRANSFERRED TO THE MUNICIPAL COURT FOR A
8 HEARING WITHIN THE TIME FRAMES REQUIRED BY SUBSECTION (2) OF THIS
9 SECTION.

10 **SECTION 2. Act subject to petition - effective date.** This act
11 takes effect January 1, 2018; except that, if a referendum petition is filed
12 pursuant to section 1 (3) of article V of the state constitution against this
13 act or an item, section, or part of this act within the ninety-day period
14 after final adjournment of the general assembly, then the act, item,
15 section, or part will not take effect unless approved by the people at the
16 general election to be held in November 2018 and, in such case, will take
17 effect on the date of the official declaration of the vote thereon by the
18 governor.