

CHAPTER 375

COURTS

HOUSE BILL 17-1338

BY REPRESENTATIVE(S) Bridges and Liston, Arndt, Becker K., Exum, Gray, Herod, Lee, Lontine, Melton, Rosenthal, Salazar, Valdez, Weissman, Duran;
also SENATOR(S) Marble and Kagan, Crowder, Jahn, Tate.

AN ACT

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

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that this act does not in any way change or affect a county sheriff's authority over prisoner intake in a county jail.

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

13-10-111.5. Notice to municipal courts of municipal holds. (1) 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 ANY MUNICIPAL HOLD; EXCEPT THAT, IF THE MUNICIPAL HOLD IS THE SOLE BASIS TO DETAIN THE PERSON, THE JAIL SHALL NOTIFY THE MUNICIPAL COURT OF THE MUNICIPAL HOLD WITHIN FOUR HOURS. ALL MUNICIPAL COURTS SHALL ESTABLISH AN E-MAIL ADDRESS, IF INTERNET SERVICE IS AVAILABLE, WHEREBY THE MUNICIPAL COURT CAN RECEIVE NOTIFICATIONS FROM JAILS. IF INTERNET SERVICE IS NOT AVAILABLE, THE MUNICIPAL COURT SHALL ESTABLISH A TELEPHONE LINE WITH VOICEMAIL FOR THE SAME PURPOSE. ALL JAILS SHALL BE DEEMED TO HAVE MET THIS NOTICE REQUIREMENT BY SENDING AN E-MAIL, FAX, OR TELETYPE TO THE MUNICIPAL COURT OR, IF THESE OPTIONS ARE UNAVAILABLE, LEAVING A VOICEMAIL WITH THE MUNICIPAL COURT, RELAYING THE NOTICE REQUIRED IN THIS SECTION.

(2) ONCE A MUNICIPAL COURT RECEIVES NOTICE THAT THE DEFENDANT IS BEING HELD SOLELY ON THE BASIS OF A MUNICIPAL HOLD, THE MUNICIPAL COURT SHALL

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

HOLD A HEARING WITHIN TWO CALENDAR DAYS, EXCLUDING SUNDAYS AND FEDERAL HOLIDAYS; EXCEPT THAT, IF THE DEFENDANT HAS FAILED TO APPEAR IN THAT CASE AT LEAST TWICE AND THE DEFENDANT IS INCARCERATED IN A COUNTY DIFFERENT FROM THE COUNTY WHERE THE DEMANDING MUNICIPAL COURT IS LOCATED, THE DEMANDING MUNICIPAL COURT SHALL HOLD A HEARING WITHIN FOUR CALENDAR DAYS, EXCLUDING SUNDAYS AND FEDERAL HOLIDAYS.

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

(I) ARRAIGN THE DEFENDANT; OR

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

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

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

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

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

Approved: June 6, 2017