

CHAPTER 92

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 23-1151

BY REPRESENTATIVE(S) Woodrow and Bockenfeld, Epps, Bacon, Boesenecker, deGruy Kennedy, Dickson, English, Garcia, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Kipp, Lindsay, Lindstedt, Mabrey, Marshall, Michaelson Jenet, Ricks, Sirota, Soper, Story, Titone, Valdez, Velasco, Vigil, Weissman, Bird, Brown, Duran, Froelich, Herod, Lieder, Martinez, Sharbini, Snyder, Young;
also SENATOR(S) Rodriguez and Gardner, Bridges, Priola.

AN ACT

CONCERNING CLARIFICATIONS TO THE REQUIREMENTS THAT THE COURT CONDUCT A BOND HEARING WITHIN FORTY-EIGHT HOURS AFTER AN INDIVIDUAL IS PLACED IN JAIL.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) It is the public policy of the state of Colorado to ensure consistent statewide access to basic due process in criminal proceedings, including bond setting;

(b) The general assembly passed House Bill 21-1280 to require that Coloradans receive an individualized bond hearing in front of a judge within forty-eight hours of arrest, and to end wide variations in prompt bond hearings across the state;

(c) Some judicial districts consistently follow the requirements of House Bill 21-1280, while others apply the provisions of House Bill 21-1280 in only limited cases;

(d) This jurisdictional split causes continued inconsistencies in access to basic due process across the state and thwarts the legislative intent of House Bill 21-1280; and

(e) Inconsistency by Colorado courts in provision of basic due process is unfair and erodes public confidence in the court system.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(2) (a) Therefore, the general assembly enacts House Bill 23-1151 to clarify and confirm the mandates of House Bill 21-1280; and

(b) Further urges the Colorado supreme court to adopt policies to ensure statewide uniformity in implementation of the requirements of House Bill 23-1151 and House Bill 21-1280.

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

13-10-111.5. Notice to municipal courts of municipal holds. (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 hold a hearing within forty-eight hours after the receipt of such a notice. The county sheriff shall make the in-custody defendant available to appear in a timely manner before a municipal judge for a hearing required by this subsection (2) at the date and time mutually agreed to by the county sheriff and municipal court. This subsection (2) must not be construed to require the county sheriff to transport the in-custody defendant to the municipal court. It is not a violation of this section if a bond hearing is not held within forty-eight hours when the delay is caused by circumstances in which the defendant refuses to attend court, is unable to attend court due to a ~~debilitating physical ailment, or is unable to proceed due to drug or alcohol use or mental illness~~ DRUG OR ALCOHOL USE, A SERIOUS MEDICAL OR BEHAVIORAL HEALTH EMERGENCY, or when the delay is caused by an emergency that requires the court to close. WHEN THE DEFENDANT IS UNABLE TO ATTEND COURT, THE SHERIFF SHALL PROVIDE THE COURT WITH A LIST OF PEOPLE SUBJECT TO THIS SECTION WHO DID NOT TIMELY ATTEND COURT, THE DATE OF THE PERSON'S ARREST, AND THE LOCATION WHERE THE PERSON IS IN CUSTODY. THE SHERIFF SHALL DOCUMENT THE LENGTH OF THE DELAY, THE REASON FOR THE DELAY, AND THE EFFORTS TO ABATE THE EMERGENCY. AS SOON AS THE EMERGENCY HAS SUFFICIENTLY ABATED, THE SHERIFF SHALL MAKE THE IN-CUSTODY DEFENDANT AVAILABLE TO APPEAR BEFORE THE MUNICIPAL COURT AT THE NEXT SCHEDULED BOND HEARING. Use of audiovisual conferencing technology is permissible to expedite the hearing. When high-speed internet access is unavailable, making audiovisual conferencing impossible, the court may conduct the hearing telephonically.

SECTION 3. In Colorado Revised Statutes, 16-4-102, **amend** (2)(a)(I) and (2)(a)(II); and **add** (2)(a)(I.5) and (2)(a)(IV) as follows:

16-4-102. Right to bail - before conviction. (2) (a) (I) The arresting jurisdiction shall bring an in-custody arrestee before a court for bond setting as soon as practicable, but no later than forty-eight hours after an arrestee arrives at a jail or holding facility. A judge, magistrate, or bond hearing officer shall hold a hearing with an in-custody arrestee at which the court shall enter an individualized bond order as soon as practicable, but no later than forty-eight hours after an arrestee arrives at a jail or holding facility. Notwithstanding the requirement for bond setting within forty-eight hours, it is not a violation of this section if a bond hearing is not held within forty-eight hours when the delay is caused by an emergency that requires the court to close or circumstances in which the ~~defendant~~ IN-CUSTODY ARRESTEE refuses to attend court, OR is unable to attend court due to a ~~debilitating physical ailment, or is unable to proceed due to drug or alcohol use or mental illness~~ DRUG OR ALCOHOL USE OR A SERIOUS MEDICAL OR BEHAVIORAL HEALTH

EMERGENCY. IN SUCH INSTANCES, THE SHERIFF SHALL PROVIDE THE PUBLIC DEFENDER'S OFFICE WITH A LIST OF PEOPLE SUBJECT TO THIS SECTION WHO DID NOT TIMELY ATTEND COURT, THE DATE OF THE PERSON'S ARREST, AND THE LOCATION WHERE THE PERSON IS IN CUSTODY. THE SHERIFF SHALL DOCUMENT THE LENGTH OF THE DELAY, THE REASON FOR THE DELAY, AND THE EFFORTS TO ABATE THE EMERGENCY. AS SOON AS THE EMERGENCY HAS SUFFICIENTLY ABATED, THE SHERIFF SHALL BRING THE IN-CUSTODY ARRESTEE BEFORE A JUDGE AT THE NEXT SCHEDULED BOND HEARING. Use of audiovisual conferencing technology is permissible to expedite bond setting hearings, including prior to extradition of the defendant IN-CUSTODY ARRESTEE from one county to another in the state of Colorado. When high-speed internet access is unavailable, making audiovisual conferencing impossible, the court may conduct the hearing telephonically.

(I.5) THIS SUBSECTION (2)(a) REQUIRES AN INDIVIDUALIZED BOND HEARING AT WHICH THE IN-CUSTODY ARRESTEE IS PRESENT, REGARDLESS OF WHETHER:

(A) AN IN-CUSTODY ARRESTEE IS HELD IN CUSTODY IN A JURISDICTION OTHER THAN THE ONE THAT ISSUED THE ARREST WARRANT;

(B) MONEY BOND WITH A MONETARY CONDITION WAS PREVIOUSLY SET EX PARTE;
OR

(C) THE IN-CUSTODY ARRESTEE DID NOT APPEAR FOR A FIRST APPEARANCE.

(II) This subsection (2)(a) applies only to the initial bond setting AT AN INDIVIDUALIZED BOND HEARING by a judge, JUDICIAL OFFICER, OR BOND HEARING OFFICER.

(IV) FOR AN IN-CUSTODY ARRESTEE WHO IS NOT SUBJECT TO THIS SUBSECTION (2)(a), NOTHING IN THIS SECTION EXTENDS OR JUSTIFIES DELAYS IN TIMELY ADVISEMENT OR BOND HEARINGS PURSUANT TO OTHER LAWS OR RULES.

SECTION 4. Effective date. This act takes effect October 1, 2023.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: April 20, 2023