

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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.

HOUSE
Amended 2nd Reading
April 28, 2017

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

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

7 **13-10-111.5. Notice to municipal courts of municipal holds.**

8 (1) IF A PERSON IS DETAINED IN A JAIL ON A MUNICIPAL HOLD AND DOES
9 NOT IMMEDIATELY RECEIVE A PERSONAL RECOGNIZANCE BOND, THE JAIL
10 SHALL PROMPTLY NOTIFY THE MUNICIPAL COURT OF ANY MUNICIPAL
11 HOLD; EXCEPT THAT, IF THE MUNICIPAL HOLD IS THE SOLE BASIS TO DETAIN
12 THE PERSON, THE JAIL SHALL NOTIFY THE MUNICIPAL COURT OF THE
13 MUNICIPAL HOLD WITHIN FOUR HOURS. ALL MUNICIPAL COURTS SHALL
14 ESTABLISH AN E-MAIL ADDRESS, IF INTERNET SERVICE IS AVAILABLE,

1 WHEREBY THE MUNICIPAL COURT CAN RECEIVE NOTIFICATIONS FROM
2 JAILS. IF INTERNET SERVICE IS NOT AVAILABLE, THE MUNICIPAL COURT
3 SHALL ESTABLISH A TELEPHONE LINE WITH VOICEMAIL FOR THE SAME
4 PURPOSE. ALL JAILS SHALL BE DEEMED TO HAVE MET THIS NOTICE
5 REQUIREMENT BY SENDING AN E-MAIL, FAX, OR TELETYPE TO THE
6 MUNICIPAL COURT OR, IF THESE OPTIONS ARE UNAVAILABLE, LEAVING A
7 VOICEMAIL WITH THE MUNICIPAL COURT, RELAYING THE NOTICE REQUIRED
8 IN THIS SECTION.

9 (2) ONCE A MUNICIPAL COURT RECEIVES NOTICE THAT THE
10 DEFENDANT IS BEING HELD SOLELY ON THE BASIS OF A MUNICIPAL HOLD,
11 THE MUNICIPAL COURT SHALL HOLD A HEARING WITHIN TWO CALENDAR
12 DAYS, EXCLUDING SUNDAYS AND FEDERAL HOLIDAYS; EXCEPT THAT, IF
13 THE DEFENDANT HAS FAILED TO APPEAR IN THAT CASE AT LEAST TWICE
14 AND THE DEFENDANT IS INCARCERATED IN A COUNTY DIFFERENT FROM
15 THE COUNTY WHERE THE DEMANDING MUNICIPAL COURT IS LOCATED, THE
16 DEMANDING MUNICIPAL COURT SHALL HOLD A HEARING WITHIN FOUR
17 CALENDAR DAYS, EXCLUDING SUNDAYS AND FEDERAL HOLIDAYS.

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

20 (I) ARRAIGN THE DEFENDANT; OR

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

25 (b) IF THE CASE IS NOT RESOLVED AT THIS HEARING, THE
26 MUNICIPAL COURT SHALL IMMEDIATELY CONDUCT A BOND HEARING TO
27 CONSIDER AND SET THE LEAST RESTRICTIVE CONDITIONS, IF ANY, FOR THE

1 DEFENDANT'S RELEASE ON BOND.

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

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

20 **SECTION 3. Act subject to petition - effective date.** This act
21 takes effect January 1, 2018; except that, if a referendum petition is filed
22 pursuant to section 1 (3) of article V of the state constitution against this
23 act or an item, section, or part of this act within the ninety-day period
24 after final adjournment of the general assembly, then the act, item,
25 section, or part will not take effect unless approved by the people at the

1 general election to be held in November 2018 and, in such case, will take
2 effect on the date of the official declaration of the vote thereon by the
3 governor.