



Legislative  
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**HB 18-1089**

# FISCAL NOTE

**Drafting Number:** LLS 18-0687  
**Prime Sponsors:** Rep. Benavidez

**Date:** February 15, 2018  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Chris Creighton | 303-866-5834  
Chris.Creighton@state.co.us

**Bill Topic:** NO MONETARY CONDITIONS OF BOND FOR MISDEMEANORS

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue ( <i>minimal</i> )	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill eliminates monetary bail for certain misdemeanor, petty, and municipal code violation offenses and makes other changes related to bond hearing requirements and procedures. This bill decreases revenue and impacts expenditures and workload for state and local governments. These impacts continue in future years.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** This fiscal note reflects the introduced bill.

## Summary of Legislation

Under this bill, 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, protection order violations, child abuse, or sexual assault may still have a cash bond imposed.

**Bond hearings.** 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 after five days, as opposed to seven days under current law, upon receipt of a motion for such a hearing. The bill also repeals the limitation that a motion for a bond reconsideration may only be filed once while the case is pending.

**Personal recognizance bond.** This bill requires a defendant charged with a crime other than a felony to not be released on a personal recognizance bond (PR bond) until signing and filing a written release agreement with the court clerk.

**Establishment of pretrial services.** Under current law, counties are encouraged, but not required to establish and utilize pretrial services programs and the establishment of a pretrial services program must be done pursuant to a plan formulated by a community advisory board appointed by the chief judge of the judicial district in which the program is to be located. Under this bill, the establishment of a pretrial services program can, but is not required, to be formed pursuant to the community advisory board plan.

### **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 expected to be minimal.

### **TABOR Refund**

The bill decreases state cash fund revenue from forfeited bonds subject to TABOR in FY 2018-19 and FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

### **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, trial court workload and costs are increased to ensure the hearing is held within this time frame. 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 allowing more than one motion for bond reconsideration. Third, by eliminating monetary bonds for most misdemeanor, petty offense, and municipal code violations, this bill will reduce workload and costs by eliminating the need to hold bond reconsideration hearings for these cases. 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.

**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 cases where monetary bonds may still be imposed. 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 impact local government costs as described below. The exact impact will vary by county depending on the number of arrests, hearings, and existing court schedules.

**County jails.** To the extent that eliminating monetary bonds for certain offenses 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, this bill potentially increases county jail costs from municipal code offenders awaiting a bond hearing within 48 hours of arrest. 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. These costs have not been estimated.

**District attorneys.** By increasing the number of bond hearings, this bill is expected to increase district attorney workload and costs. More specifically, district attorney workload is increased to file motions to prevent the release of certain defendants on bond that are deemed to be a threat to public safety. 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 unlimited bond reconsideration hearings in certain 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 bond hearing. By increasing the number of bond hearings that are likely to occur this bill also increases county sheriff court security costs for security at these hearings. These costs have not been estimated.

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

**Effective Date**

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

Alternate Defense Counsel  
Judicial  
Sheriffs

Counties  
Municipalities

District Attorneys  
Public Defender