

*Colorado Legislative Council Staff Fiscal Note*

**STATE and LOCAL  
REVISED FISCAL IMPACT**

(replaces fiscal note dated February 19, 2014)

**Drafting Number:** LLS 14-0774  
**Prime Sponsor(s):** Rep. Wright

**Date:** February 24, 2014  
**Bill Status:** House Second Reading  
**Fiscal Analyst:** Kerry White (303-866-3469)

**SHORT TITLE:** IMPROVEMENTS TO PRETRIAL RELEASE

<b>Fiscal Impact Summary*</b>	<b>FY 2014-2015</b>	<b>FY 2015-2016</b>
<b>State Revenue</b> Cash Funds	<b>(\$1.1 million - \$2.2 million)</b> (\$1.1 million - 2.2 million)	<b>(\$1.1 million - \$2.2 million)</b> (\$1.1 million - \$2.2 million)
<b>State Expenditures</b> General Fund	Workload increase. Potential cost increase.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None.		

\* This summary shows changes from current law under the bill for each fiscal year. Parentheses indicate a decrease in funds.

**Summary of Legislation**

**As amended by the House Judiciary Committee**, this bill clarifies that a pretrial risk assessment may only be used for that purpose. It also makes a number of changes regarding the bonding process and the return of moneys to a defendant. Specifically, the bill:

- clarifies that the court or a person designated by the court may set a defendant's bond;
- allows a defendant to decide the method for satisfying the financial conditions of release, unless the court specifically finds that a certain method is reasonable and necessary to ensure his or her appearance in court;
- requires the court, if no bonding commissioner is available, to notify the bail bond agent of record by electronic mail within 24 hours or by certified mail within 14 days of issuing a warrant for a defendant;
- requires that a pretrial supervision program notify the defense counsel of record, if any, of a report or request made by the program of the court or a district attorney to revoke or impose additional conditions of bond or release for a supervised defendant;
- allows a compensated surety to file with the court, in writing, at least seven days prior to the hearing, a statement of time, exposure to risk, expenses or other costs incurred for posting of the bond; and
- removes the ability of the court to apply a defendant's cash bond towards court costs, fees, fines, or restitution owed, unless the defendant agrees in writing to the use of the moneys for this purpose.

## **Background**

The counties of Adams, Alamosa, Boulder, Denver, Douglas, Jefferson, Larimer, Mesa, Montezuma, Pueblo, and Weld have pretrial services programs.

## **State Revenue**

**Beginning in FY 2014-15, this bill is anticipated to reduce cash fund revenue in the Judicial Department by between \$1.1 million and \$2.2 million per year.** Revenue losses will occur because the department will no longer be able to use cash bonds to pay outstanding court costs without the written approval of the defendant. Over the last three years, an average of \$3,696,450 was received annually, including:

- \$871,137 in victim compensation and victim assistance program funds;
- \$822,593 in probation supervision fees for the Judicial Offender Services Fund;
- \$422,616 in DUI and traffic fines for the Highway Users Tax Fund and local governments;
- \$360,572 in restitution for crime victims;
- \$222,686 in fees for the Alcohol Evaluation and Supervision Cash Fund;
- \$126,631 in drug offender surcharges for the Correctional Treatment Cash Fund; and
- \$870,215 for other statutory purposes and cash funds.

About 75 percent or \$2.8 million of the annual amount received each year is assumed to be from a cash bond transfer. This analysis assumes that 80 percent of defendants will not agree in writing to have the cash bond transferred for payment of outstanding court costs. This will reduce cash fund transfers by \$2.2 million per year. However, it is further assumed that 50 percent of defendants will make payment arrangements to satisfy the obligation over time. This will result in \$1.1 million being paid, the timing of which cannot be determined. The remaining \$1.1 million per year is assumed to be uncollected.

## **State Expenditures**

**Beginning in FY 2014-15, workload will increase for the Judicial Department.** Depending on the amount of the annual decrease in revenue and the programs impacted, costs could also increase in future years as discussed below.

Under the bill, the Judicial Department is required to notify the defense counsel of record, if any, of a report or request made by the program of the court or district attorney to revoke or impose additional conditions of bond or release for a supervised defendant. The court is also required, if no bonding commissioner is available, to notify the bail bond agent of record by electronic mail within 24 hours or by certified mail within 14 days of issuing a warrant for a defendant. This analysis assumes that these activities can be performed without an increase in appropriations.

**Other costs.** As discussed above, a number of state programs currently receive revenue as a result of transfers from retained cash bonds. To the extent that revenue declines, some programs could require General Fund backfill. This amount has not been estimated. This analysis assumes that departments with affected cash funds and programs will request any additional appropriations required through the annual budget process.

**Local Government Impact**

This bill may reduce revenue transferred to local governments. As discussed above, certain costs are collected by transferring a defendant's cash bond, including moneys credited to the Highway Users Tax Fund, of which 35 percent is transferred to cities and counties for transportation projects. Moneys are also collected for probation supervision programs in the City and County of Denver. The exact reduction in revenue has not been estimated.

**Effective Date**

The bill takes effect July 1, 2014, and applies to arrests made or charges filed on or after this date.

**State and Local Government Contacts**

Corrections

District Attorneys

Judicial

Public Safety