



Colorado Legislative Council Staff Fiscal Note
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 12-0820
Prime Sponsor(s): Rep. Stephens

Date: February 24, 2012
Bill Status: House Judiciary
Fiscal Analyst: Kerry White (303-866-3469)

TITLE: CONCERNING BOND CONDITIONS WHEN A UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER IS LODGED AGAINST A DEFENDANT.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
Cash Funds		
Capital Construction Fund	Potential decrease.	
County Jail Assistance Fund	Potential decrease.	
State Expenditures	Potential decrease.	
FTE Position Change		
Effective Date: August 8, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This bill modifies recovery bond conditions for a defendant who is charged with a felony or class 1 or class 2 misdemeanor and is determined to be in the country illegally. Under current law, a defendant who is believed to be in the country illegally, with or without an Immigration and Customs Enforcement (ICE) detainer, may post bond and the bail bonding agent is required to execute a waiver that states the person understands that the bond or fees shall be forfeited if the defendant is removed from the country. This bill clarifies that these bond conditions only apply to persons with an ICE detainer and requires the following:

- a law enforcement agency must notify the bail bonding agent in writing before the bond is posted and notify the district attorney's office and any pretrial services agency of the defendant's immigration status; and
- if a defendant posts bond, the law enforcement agency must notify the district attorney of the posting of bond prior to notifying ICE that the defendant is eligible for release to their custody.

Under the bill, only the bond is eligible for forfeiture if the defendant is removed from the county; bail fees may be retained by the bail bonding agent.

State Revenue

This bill may reduce state cash fund revenue as a result of no longer including bail bonding agent fees in the amounts forfeited when a defendant is removed from the country. Forfeited bonds and fees are split between the Capital Construction Fund for appropriation to the Corrections Expansion Reserve Fund and the County Jail Assistance Fund. The amount of the decrease depends on the number of defendants who have bail posted by a bail bonding agent and are then removed from the country. The decrease in revenue is anticipated to be minimal.

State Expenditures

As discussed in the Local Government Impact section, this bill may decrease state expenditures. To the extent that more bail bonding agents agree to execute bond agreements for persons believed to be in the country illegally, costs for state inmates being held in county jails while awaiting trial may be reduced. This amount has not been estimated, but is anticipated to be minimal.

Local Government Impact

This bill is expected to decrease costs for local governments to house certain defendants. The fiscal note assumes that currently, because of the risk of bond and fee forfeiture, few, if any, bail bond agreements are issued for persons believed to be in the country illegally. However, under this bill, only defendants with an ICE detainer are subject to this standard. As a result, it is likely more bonding agreements will be written, reducing the number of individuals held in county jails while awaiting trial. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$50.44 to house state inmates.

Departments Contacted

Corrections

Judicial

Law

Local Affairs