

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0947
Prime Sponsor(s): Rep. Salazar

Date: April 20, 2015
Bill Status: House Judiciary
Fiscal Analyst: Clare Pramuk (303-866-2677)

BILL TOPIC: STATE AUTHORITY IMMIGRATION ENFORCEMENT

Fiscal Impact Summary*	FY 2014-2015 (current year)	FY 2015-2016	FY 2016-2017
State Revenue		(\$13,000)	\$(13,000)
Cash Funds		(13,000)	(13,000)
State Expenditures	Minimal reduction - See State Expenditures section.		
TABOR Set-Aside		(\$13,000)	(\$13,000)
FTE Position Change			
Appropriation Required: None.			

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

Summary of Legislation

This bill prohibits a public safety agency from holding or detaining a person beyond his or her release date based solely on an immigration detainer request or administrative warrant. However, a public safety agency may comply with a valid and properly issued federal warrant that meets legal standards and is signed by a federal magistrate or judge.

A court is prohibited from using the existence of an immigration detainer request or administrative warrant as the deciding factor in setting bond in criminal cases. An individual subject to an immigration detainer request or administrative warrant cannot be discouraged from posting bond or bail on that basis.

The bill repeals current law regarding bonds recovered for persons illegally present in the country and repeals the authority for the County Jail Assistance Fund.

Background

An immigration detainer is a request from the federal Department of Homeland Security to federal, state, and local law enforcement agencies to hold a person who is currently in custody for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, for Immigration and Customs Enforcement (ICE). State and local law enforcement agencies are not required to keep a person in custody and receive no compensation for the additional time a person is held awaiting ICE taking custody. Administrative removal warrants are used by ICE officers to arrest non-citizens who have committed immigration violations. The Department of Corrections does not currently hold offenders beyond their release dates based on an immigration detainer request or administrative warrant.

House Bill 07-1040 specified that proceeds from bonds posted for defendants that were subsequently deported would not be refunded but instead would be credited to the Capital Construction Fund for appropriation on a quarterly basis to the Corrections Expansion Reserve Fund for prison bed construction. SB08-134 took half of the moneys from forfeited bonds that would have been transferred to the Capital Construction Fund, and instead credited them to the County Jail Assistance Fund, which has a current balance of \$46,391. No moneys have been paid out of the County Jail Assistance Fund since its inception, so this balance represents seven years of collections.

State Revenue

This bill impacts state revenue in two ways. First, this bill reduces annual average revenue of \$13,000 from forfeited bonds that are credited 50 percent into the Capital Construction Fund and 50 percent into the County Jail Assistance Fund. While this amount has averaged about \$13,000 per year, the actual amount collected depends on a variety of factors that affect how many and what size bonds are forfeited.

Second, because the bill prohibits individuals subject to an immigration detainer request or administrative warrant from being discouraged from posting bond or bail, the fiscal note assumes that the number of individuals released from custody on bond or bail will increase. In turn, this could result in an increase in forfeitures that are credited to the General Fund. The fiscal note does not include an estimate of this change, but it may offset the revenue reduction noted above.

TABOR Impact

This bill reduces state revenue from forfeited bonds, which will decrease the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

State Expenditures

Beginning in FY 2014-15, this bill will have a minimal reduction on court workloads in the Judicial Department. The court already takes into account many factors when setting a bond so excluding the existence of an immigration detainer request or administrative warrant as one element will not significantly minimize what the court must consider.

Local Government Impact

This bill is expected to reduce costs for local law enforcement agencies by reducing jail time for persons illegally present in the country. The cost to house an offender in county jails varies from about \$53 to \$114 per day. Local law enforcement agencies that currently choose to hold individuals in custody beyond their release dates based on an immigration detainer request or administrative warrant will see a reduction in jail costs for up to two days per person or longer if held over a weekend or holiday. Second, because of the changes to the bonding process, an increased number of individuals will be able to make bail or bond, and spend less time incarcerated.

The bill will reduce the funding available to county jails from the County Jail Assistance Fund. Since it does not appear that any funding has been distributed to date, this is not a significant impact.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

District Attorneys
Law
Sheriffs

Corrections
Municipalities
Public Safety

Judicial Department
Counties