

Proposition 102

Colorado Legislative Council Staff
FISCAL IMPACT STATEMENT

Date: September 1, 2010

Fiscal Analyst: Sara McPhee. 303-866-4782

BALLOT TITLE: CRITERIA FOR SETTING BAIL AND TYPE OF BOND

Fiscal Impact Summary	FY 2010-11	FY 2011-12
State Revenue		
State Expenditures	See State Expenditures section.	
FTE Position Change		
Local Government Impact: See Local Government Impact section.		

Summary of Measure

The measure prohibits judges from releasing a defendant on an unsecured bond to a pretrial services program unless the defendant has been arrested for a nonviolent misdemeanor and it is his or her first offense. Currently, 10 judicial districts have pretrial services programs that assist the court in making bail and bond recommendations and supervising arrestees who have been released awaiting trial.

Under the measure, judges in judicial districts with pretrial services programs would still be able to order pretrial services supervision as long as the arrestee is released on a secured bond, such as a cash bond or a surety bond which is obtained with the assistance of a bailbondsman. Judges would also be able to release arrestees on an unsecured bond, or on their personal recognizance, as long as the arrestee is not being supervised by pretrial services.

State Expenditures

Judicial Branch. The measure may increase the workload for the trial courts to bring arrestees to trial who are not able to obtain release because of financial constraints. National data shows that released defendants wait about 127 days for trial as compared with 45 days for those who remain in jail. Assuming that some arrestees will not be able to meet the financial conditions necessary to secure their release means that the court will try to hear those cases more quickly. Given that this measure affects courts across the state and the arrestees would require a trial regardless, the fiscal note assumes that these costs are absorbable within existing resources.

Local Government Impact

The measure will increase costs for local jails across the state by about \$2.8 million beginning in FY 2010-11. In FY 2008-09, the 10 judicial districts with pretrial services had about 5,800 arrestees released on an unsecured bond with pretrial services supervision. Under the measure, these arrestees will either be released on an unsecured bond with no supervision or will be released on a secured bond (with or without supervision). It is not possible to determine how many of these individuals will be released on an unsecured bond without supervision; data from the Judicial Department shows that judges regularly release arrestees on their personal recognizance without supervision. The fiscal note assumes that 50 percent of the 5,800 arrestees released to pretrial supervision will be released on an unsecured bond without supervision.

It is assumed that the remaining 2,900 arrestees would be released on a secured bond either with or without supervision. National data indicates that about 30 percent of arrestees remain in jail awaiting their trial because, when a secured bond is required, they cannot meet the financial obligations necessary for their release. Therefore, the fiscal note assumes that 870 arrestees who would have been released will remain in jail until trial. Nationally, arrestees who remain in jail until trial have a wait of about 45 days which requires local jails to house these arrestees for an additional 39,150 days. Using the state reimbursement rate for local jails of \$50.44 per day, this translates to a cost of \$1,974,726 for local jails to house these 870 arrestees until trial.

Additionally, an arrestee who is released on an unsecured bond is typically released in one day after being arrested while arrestees who have to post a secured bond spend about 8 days in jail obtaining financing. Under the measure, there would be 2,030 arrestees who will be able to obtain financing and be released prior to trial, but will spend the 8 days in jail while the necessary money, property, or assistance of a bailbondsman is obtained. This requires local jails to house these arrestees for an additional 16,240 days at a cost of \$819,145 per year.

The fiscal note assumes that 2,900 arrestees who had been supervised will be released on their personal recognizance without supervision resulting in about 290 fewer arrestees to be supervised in each of the 10 judicial districts that offer pre-trial supervision. This could result in a decrease in local funding needed for pre-trial services; however, this reduction cannot be quantified. Each pre-trial services program is different and operated by the judicial district. While some districts may reduce funding, others may use the existing funding to offer additional pre-trial services to other arrestees.