

**First Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 25-0392.02 Conrad Imel x2313

**HOUSE BILL 25-1276**

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**HOUSE SPONSORSHIP**

**Soper and Bird,**

**SENATE SPONSORSHIP**

**Roberts and Frizell,**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING DEFENDANTS WHO FAIL TO APPEAR IN COURT, AND, IN**  
102              **CONNECTION THEREWITH, PERMITTING CERTAIN CONDITIONS**  
103              **ON PRE-TRIAL RELEASE FOR DEFENDANTS WHO HAVE**  
104              **PREVIOUSLY FAILED TO APPEAR.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Under current law, a court is required to release a person on a personal recognizance bond if the person was charged with an offense for a violation with a maximum penalty that does not exceed 6 months'

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.*  
*Dashes through the words or numbers indicate deletions from existing law.*

imprisonment, and the court cannot require the person to give security of any kind for their appearance for trial other than their personal recognizance, unless certain conditions exist. The bill clarifies these provisions apply in both state and municipal courts. The bill adds to the conditions for which a person may be required to give security that the defendant previously failed to appear in court 2 or more times in the present case.

Existing law prohibits a court from imposing a monetary condition of release for a defendant charged with a traffic offense, petty offense, or comparable municipal offense, or a municipal offense for which there is no comparable state misdemeanor offense, with specified exceptions. The bill adds exceptions for:

- A petty offense for theft, criminal mischief, or arson, or a comparable municipal offense, or a municipal offense involving threats of violence, injury, or property damage, if the defendant has previously failed to appear in court 2 or more times in the present case; and
- Any other petty offense, traffic offense, or a comparable municipal offense or a municipal offense for which there is no comparable state offense, if the defendant has previously failed to appear for a court proceeding 3 or more times in the present case and has another pending charge for the same offense in the same jurisdiction.

The bill applies the exceptions involving previous instances of a defendant's failure to appear for a court proceeding only when, prior to issuing a warrant for the arrest of the defendant for the previous failure to appear, the court conducted a search to determine whether the defendant was being held in a correctional facility or county jail, and at the time of the previous failure to appear, the court had certain processes in place governing failures to appear.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, **amend** 16-4-113 as  
3 follows:

4           **16-4-113. Type of bond in certain non-felony cases.** (1) (a) ~~In~~  
5 ~~exercising the discretion mentioned in section 16-4-104, the~~ EXCEPT IN  
6 THE CIRCUMSTANCES DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION,  
7 IF AN ACCUSED PERSON IS CHARGED WITH COMMITTING AN OFFENSE FOR  
8 WHICH THE MAXIMUM PENALTY DOES NOT EXCEED SIX MONTHS'

1 IMPRISONMENT, A judge shall release the accused person upon personal  
2 recognizance ~~if the charge is any offense for a violation of which the~~  
3 ~~maximum penalty does not exceed six months' imprisonment, and the~~  
4 AND, EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, SHALL  
5 NOT REQUIRE THE accused person ~~shall not be required~~ to supply a surety  
6 bond, or give security of any kind for their appearance for trial other than  
7 their personal recognizance. ~~unless one or more of the following facts are~~  
8 ~~found to be present:~~

9 (b) A JUDGE MAY REQUIRE THE ACCUSED PERSON TO SUPPLY A  
10 SURETY BOND OR GIVE SECURITY FOR THE ACCUSED PERSON'S  
11 APPEARANCE FOR TRIAL OTHER THAN THEIR PERSONAL RECOGNIZANCE IF:

12 (a) (I) The ~~arrested~~ person fails to sufficiently identify ~~himself or~~  
13 ~~herself~~ THEMSELF; or

14 (b) (II) The ~~arrested~~ person refuses to sign a personal  
15 recognizance; or

16 (c) (III) The continued detention or posting of a surety bond is  
17 necessary to prevent imminent bodily harm to the accused PERSON or to  
18 another; or

19 (d) (IV) The ~~arrested~~ person has no ties to the jurisdiction of the  
20 court reasonably sufficient to assure ~~his or her~~ THEIR appearance, and  
21 there is substantial likelihood that ~~he or she~~ THE PERSON will fail to  
22 appear for trial if released upon ~~his or her~~ THEIR personal recognizance;  
23 or

24 (e) (V) The ~~arrested~~ person has previously failed to appear for trial  
25 for an offense concerning which ~~he or she~~ THE PERSON had given ~~his~~  
26 THEIR written promise to appear; or

27 (f) (VI) There is outstanding a warrant for ~~his or her~~ THE PERSON'S

1 arrest on any other charge or there are pending proceedings against him  
2 or her THEM for suspension or revocation of parole or probation; OR

3 (VII) SUBJECT TO SUBSECTION (3) OF THIS SECTION, THE PERSON  
4 HAS PREVIOUSLY FAILED TO APPEAR FOR A COURT PROCEEDING AS  
5 REQUIRED BY A COURT TWO OR MORE TIMES IN THE PRESENT CASE.

6 (c) THIS SUBSECTION (1) APPLIES IN STATE AND MUNICIPAL  
7 COURTS.

8 (2) (a) A COURT SHALL NOT IMPOSE A MONETARY CONDITION OF  
9 RELEASE for a defendant charged with:

10 (I) A traffic offense, a petty offense, or a comparable municipal  
11 offense, ~~a court shall not impose a monetary condition of release. If the~~  
12 INCLUDING A comparable municipal offense THAT is a property crime and  
13 the factual basis reflects a value of property loss or damage that would be  
14 a petty offense property crime if charged under state law; ~~this subsection~~  
15 ~~(2)(a) applies.~~ AND

16 (II) A MUNICIPAL OFFENSE FOR WHICH THERE IS NO COMPARABLE  
17 STATE MISDEMEANOR OFFENSE.

18 ~~(b) For a defendant charged with a municipal offense for which~~  
19 ~~there is no comparable state misdemeanor offense, the court shall not~~  
20 ~~impose a monetary condition of release.~~

21 ~~(c)~~ (b) THIS SUBSECTION (2) DOES NOT PROHIBIT:

22 (I) THE RELEASE OF A DEFENDANT, PURSUANT TO LOCAL PRETRIAL  
23 RELEASE POLICIES, after arrest but prior to an individual consideration of  
24 bond by a judge, bonding commissioner, judicial officer, or judicial  
25 designee with the power to set conditions of release, ~~this subsection (2)~~  
26 ~~does not prohibit the release of a defendant pursuant to local pretrial~~  
27 ~~release policies, including those~~ LOCAL PRETRIAL RELEASE POLICIES that

1 require payment of a monetary condition of release, if the defendant is  
2 first informed that the defendant is entitled to release on a personal  
3 recognizance bond; OR

4 ~~(d)~~ (II) ~~Nothing in this subsection (2) prohibits the issuance of A~~  
5 COURT FROM ISSUING a warrant with monetary conditions of bond for a  
6 defendant who fails to appear in court as required or who violates a  
7 condition of release. If a defendant is unable to post the monetary  
8 condition of bond prior to the next individualized consideration of bond,  
9 the judge, bonding commissioner, judicial officer, or judicial designee  
10 with the power to set conditions of release shall release the person on  
11 personal recognizance.

12 ~~(e)~~ (c) ~~The provisions of This subsection (2) do~~ DOES not apply to:

13 (I) A traffic offense involving death or bodily injury or a  
14 municipal offense with substantially similar elements;

15 (II) Eluding or attempting to elude a police officer as described in  
16 section 42-4-1413 or a municipal offense with substantially similar  
17 elements;

18 (III) Operating a vehicle after circumventing an interlock device  
19 as described in section 42-2-132.5 (10) or a municipal offense with  
20 substantially similar elements; ~~and~~

21 (IV) A municipal offense that has substantially similar elements  
22 to a state misdemeanor offense;

23 (V) SUBJECT TO SUBSECTION (3) OF THIS SECTION, A PETTY  
24 OFFENSE FOR THEFT, CRIMINAL MISCHIEF, OR ARSON, OR A COMPARABLE  
25 MUNICIPAL OFFENSE, IF THE DEFENDANT HAS PREVIOUSLY FAILED TO  
26 APPEAR FOR A COURT PROCEEDING AS REQUIRED BY A COURT TWO OR  
27 MORE TIMES IN THE PRESENT CASE; AND

1           (VI) SUBJECT TO SUBSECTION (3) OF THIS SECTION, A PETTY  
2 OFFENSE, TRAFFIC OFFENSE, OR A COMPARABLE MUNICIPAL OFFENSE OR A  
3 MUNICIPAL OFFENSE FOR WHICH THERE IS NO COMPARABLE STATE  
4 OFFENSE, THAT IS NOT LISTED IN SUBSECTION (2)(c)(V) OF THIS SECTION  
5 IF THE DEFENDANT HAS PREVIOUSLY FAILED TO APPEAR FOR A COURT  
6 PROCEEDING AS REQUIRED BY A COURT THREE OR MORE TIMES IN THE  
7 PRESENT CASE AND HAS ANOTHER PENDING CASE FOR THE SAME OFFENSE  
8 IN THE SAME JURISDICTION.

9           (3) A FAILURE TO APPEAR THAT OCCURRED ON OR AFTER THE  
10 EFFECTIVE DATE OF THIS SUBSECTION (3) QUALIFIES AS A PREVIOUS  
11 FAILURE TO APPEAR FOR THE PURPOSES OF SUBSECTIONS (1)(b)(VII),  
12 (2)(c)(V), AND (2)(c)(VI) OF THIS SECTION ONLY IF THE COURT:

13           (a) PRIOR TO ISSUING A WARRANT FOR THE ARREST OF THE  
14 DEFENDANT FOR THE PREVIOUS FAILURE TO APPEAR, CONDUCTED AN  
15 ELECTRONIC SEARCH OF AVAILABLE COURT DATABASES OR ONLINE  
16 RESOURCES TO DETERMINE WHETHER THE DEFENDANT WAS BEING HELD  
17 IN A CORRECTIONAL FACILITY, AS DEFINED IN SECTION 17-1-102, OR IN THE  
18 COUNTY JAIL FOR THE COUNTY IN WHICH THE COURT IS LOCATED; AND

19           (b) AT THE TIME OF THE DEFENDANT'S PREVIOUS FAILURE TO  
20 APPEAR:

21           (I) HAD A PROCESS THAT ALLOWS A DEFENDANT TO INFORMALLY  
22 CONTACT THE COURT BY REMOTE MEANS, INCLUDING, BUT NOT LIMITED  
23 TO, BY PHONE OR EMAIL, ON OR BEFORE THE DAY OF THE COURT  
24 APPEARANCE TO REQUEST A CONTINUANCE, AND THAT AFTER THE  
25 DEFENDANT ENGAGES THE PROCESS, ALLOWS THE COURT TO REQUIRE THE  
26 DEFENDANT TO MAKE THE REQUEST IN WRITING AND SEND THE REQUEST  
27 TO THE COURT BY ANY MEANS, INCLUDING EMAIL;

1 (II) HAD A PROCESS TO QUASH A WARRANT FOR A FAILURE TO  
2 APPEAR THAT ALLOWS THE DEFENDANT TO CONTACT THE COURT FOR THE  
3 PURPOSE OF RESETTING THE DEFENDANT'S APPEARANCE AFTER THE  
4 DEFENDANT'S FAILURE TO APPEAR BUT PRIOR TO THE DEFENDANT'S NEXT  
5 COURT PROCEEDING, AND THAT AFTER THE DEFENDANT ENGAGES THE  
6 PROCESS, ALLOWS THE COURT TO REQUIRE THE DEFENDANT TO MAKE THE  
7 REQUEST IN WRITING AND SEND THE REQUEST TO THE COURT BY ANY  
8 MEANS, INCLUDING EMAIL, AND A PROCESS TO EXCUSE A FAILURE TO  
9 APPEAR IF THE DEFENDANT APPEARS AT THE NEXT COURT PROCEEDING;

10 (III) HAD A PROCESS FOR THE COURT TO EXCUSE A DEFENDANT'S  
11 FAILURE TO APPEAR FOR A COURT PROCEEDING IF THE DEFENDANT  
12 PRODUCES EVIDENCE SHOWING THAT THEIR FAILURE TO APPEAR WAS NOT  
13 WILLFUL OR WAS CAUSED BY EXCUSABLE NEGLIGENCE; AND

14 (IV) POSTED THE PROCESSES DESCRIBED IN THIS SUBSECTION (3)  
15 ONLINE AND AT THE COURTHOUSE, IN BOTH ENGLISH AND SPANISH.

16 **SECTION 2. Act subject to petition - effective date -**  
17 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
18 the expiration of the ninety-day period after final adjournment of the  
19 general assembly; except that, if a referendum petition is filed pursuant  
20 to section 1 (3) of article V of the state constitution against this act or an  
21 item, section, or part of this act within such period, then the act, item,  
22 section, or part will not take effect unless approved by the people at the  
23 general election to be held in November 2026 and, in such case, will take  
24 effect on the date of the official declaration of the vote thereon by the  
25 governor.

26 (2) This act applies to offenses committed on or after the  
27 applicable effective date of this act.