

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0947.01 Michael Dohr x4347

HOUSE BILL 15-1356

HOUSE SPONSORSHIP

Salazar, Buckner, Duran, Esgar, Fields, Melton, Moreno, Pabon, Vigil, Williams

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES RELATED TO ENFORCING FEDERAL**
102 **IMMIGRATION LAW.**

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://www.leg.state.co.us/billsummaries>.)

The bill prohibits a public safety agency from holding or detaining a person beyond the point that he or she is eligible for release based solely on an immigration detainer request or administrative warrant.

The bill prohibits a court from using the existence of an immigration detainer request or administrative warrant as the deciding factor in setting bond in criminal cases. The bill prohibits discouraging an

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

individual who is the subject of an immigration detainer request or administrative warrant from payment of bond or bail on the basis of that detainer request or administrative warrant.

The bill repeals the statute regarding bonds recovered for persons without documentation.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) It is important to enhance public safety by building trust
5 between immigrant communities and public safety agencies and to ensure
6 equal protection and safety for all members of Colorado communities,
7 including witnesses and victims of crime;

8 (b) Entangling public safety agencies in enforcing federal
9 immigration laws can undermine community trust;

10 (c) A federal immigration detainer request or administrative
11 warrant that is used to detain an individual does not contain or require
12 statements of probable cause or a judicial finding of probable cause as is
13 required in Colorado criminal procedure;

14 (d) Those documents can create liability for Colorado's public
15 safety agencies while harming community trust;

16 (e) Recent federal court rulings have indicated that an immigration
17 detainer request or administrative warrant not issued by a court are
18 "requests" and therefore are not considered "arrest warrants";

19 (f) There is no state authority for arresting or prolonging the
20 detention of a person based on an alleged civil immigration violation, and
21 an immigration detainer request or administrative warrant does not confer
22 any authority on Colorado law enforcement agencies. An immigration
23 detainer request or administrative warrant does not create an obligation

1 or legal authority to maintain custody of a prisoner who is otherwise
2 eligible for immediate release from custody.

3 (g) By clarifying and delineating the responsibilities of Colorado
4 public safety agencies and those of federal immigration agencies, the
5 general assembly can ensure that local resources are focused on public
6 safety issues instead of immigration issues that are the federal
7 government's responsibility. This will save local governments a
8 significant amount of time, energy, and resources.

9 (h) Preventing civil liability for Colorado communities and public
10 safety agencies, along with ensuring the equal provision of constitutional
11 protections, are a primary concern for Colorado and public safety
12 agencies.

13 (2) The general assembly further finds that enacting this act will
14 promote public safety, community policing, and civil liberties and does
15 not limit state or local government responsibilities pursuant to federal
16 law.

17 **SECTION 2.** In Colorado Revised Statutes, **add** article 6.5 to title
18 16 as follows:

19 **ARTICLE 6.5**

20 **Immigration Detainer Limits**

21 **16-6.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
22 BE CITED AS THE "IMPROVING AND MAINTAINING PROTECTIONS,
23 ACCOUNTABILITY, AND COMMUNITY TRUST ACT".

24 **16-6.5-102. Definitions.** AS USED IN THIS ARTICLE UNLESS THE
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "ADMINISTRATIVE WARRANT" MEANS A DOCUMENT ISSUED BY
27 AN IMMIGRATION OFFICIAL THAT CAN FORM THE BASIS FOR AN

1 INDIVIDUAL'S ARREST OR DETENTION FOR A CIVIL IMMIGRATION PURPOSE,
2 INCLUDING BUT NOT LIMITED TO AN IMMIGRATION WARRANT OF ARREST,
3 AN ORDER TO DETAIN OR RELEASE ALIENS, A NOTICE OF CUSTODY
4 DETERMINATION, A NOTICE TO APPEAR, A REMOVAL ORDER, OR A
5 WARRANT OF REMOVAL.

6 (2) "IMMIGRATION DETAINER REQUEST" MEANS A DOCUMENT
7 ISSUED BY AN IMMIGRATION OFFICIAL TO A FEDERAL, STATE, OR LOCAL
8 PUBLIC SAFETY AGENCY THAT REQUESTS THAT THE PUBLIC SAFETY
9 AGENCY PROVIDE NOTICE OF RELEASE OR MAINTAIN CUSTODY OF THE
10 INDIVIDUAL BASED ON AN ALLEGED VIOLATION OF A CIVIL IMMIGRATION
11 LAW, INCLUDING BUT NOT LIMITED TO A REQUEST FOR NOTIFICATION AND
12 DETAINER ISSUED UNDER SECTION 236.1 OR SECTION 287.7 OF TITLE 8 OF
13 THE CODE OF FEDERAL REGULATIONS, AND BASED ON DEPARTMENT OF
14 HOMELAND SECURITY FORM I-247 "IMMIGRATION DETAINER - NOTICE OF
15 ACTION".

16 (3) "NCIC" REFERS TO A FEDERALLY MAINTAINED DATABASE
17 KNOWN AS THE NATIONAL CRIME INFORMATION CENTER, WHICH IS USED TO
18 HOUSE WARRANTS ACCESSIBLE BY LAW ENFORCEMENT AGENCIES AROUND
19 THE UNITED STATES.

20 (4) "PEACE OFFICER" MEANS A PEACE OFFICER DESCRIBED IN
21 ARTICLE 2.5 OF THIS TITLE.

22 **16-6.5-103. Immigration-related detention.** (1) A PUBLIC
23 SAFETY AGENCY SHALL NOT HOLD OR DETAIN A PERSON BEYOND THE
24 POINT THAT HE OR SHE IS ELIGIBLE FOR RELEASE BASED SOLELY ON AN
25 IMMIGRATION DETAINER REQUEST OR ADMINISTRATIVE WARRANT. A
26 PUBLIC SAFETY AGENCY MAY EXECUTE OR COMPLY WITH A VALID AND
27 PROPERLY ISSUED FEDERAL WARRANT THAT MEETS THE LEGAL STANDARD

1 OF JUDICIAL REVIEW AND IS SIGNED BY A FEDERAL MAGISTRATE OR JUDGE.

2 (2) IF A PUBLIC SAFETY AGENCY RECEIVES AN
3 IMMIGRATION-RELATED WARRANT FROM NCIC, OR ANY SUCCESSOR OR
4 SIMILAR DATABASE, THE PUBLIC SAFETY AGENCY SHALL LOCATE THE
5 WARRANT AND CONFIRM THAT IT MEETS THE LEGAL STANDARD OF
6 JUDICIAL REVIEW AND IS SIGNED BY A FEDERAL MAGISTRATE OR JUDGE
7 BEFORE EXECUTING THE WARRANT.

8 (3) THIS SECTION DOES NOT RESTRICT ANY EXPENDITURE OR
9 ACTION BY THE STATE, A LOCAL UNIT OF GOVERNMENT, OR A PUBLIC
10 SAFETY OR OTHER AGENCY, OR BY AN EMPLOYEE OR AGENT OF THE STATE,
11 LOCAL UNIT OF GOVERNMENT, OR AGENCY, THAT IS NECESSARY TO
12 PERFORM THE OBLIGATIONS OF A CONTRACT BETWEEN THE STATE, LOCAL
13 UNIT OF GOVERNMENT, OR AGENCY AND FEDERAL OFFICIALS REGARDING
14 THE USE OF A FACILITY TO DETAIN INDIVIDUALS ALREADY IN FEDERAL
15 IMMIGRATION CUSTODY AND IN FEDERAL IMMIGRATION REMOVAL
16 PROCEEDINGS.

17 **16-6.5-104. Bond issues for individuals with**
18 **immigration-related issues.** (1) A COURT SHALL NOT USE THE
19 EXISTENCE OF AN IMMIGRATION DETAINER REQUEST OR ADMINISTRATIVE
20 WARRANT AS THE DECIDING FACTOR IN SETTING BOND IN CRIMINAL CASES.
21 THIS SECTION DOES NOT AFFECT THE AUTHORITY OF A COURT TO MAKE
22 BAIL OR BOND DETERMINATIONS ACCORDING TO ITS USUAL PROCEDURES.

23 (2) A PERSON WHO MAKES BAIL OR BOND SHALL NOT BE
24 PREVENTED FROM RELEASE UPON REVIEW OF ACCURACY AS TO THE BOND
25 OR BAIL. AN IMMIGRATION DETAINER REQUEST OR ADMINISTRATIVE
26 WARRANT MUST NOT INTERFERE WITH OR DELAY AN INDIVIDUAL'S
27 BONDING PROCESS. ONLY JUDICIALLY APPROVED WARRANTS MAY

1 PREVENT THE RELEASE OF AN INDIVIDUAL.

2 (3) AN INDIVIDUAL WHO IS THE SUBJECT OF AN IMMIGRATION
3 DETAINER REQUEST OR ADMINISTRATIVE WARRANT SHALL NOT BE
4 DISCOURAGED FROM PAYING BOND OR BAIL ON THE BASIS OF THAT
5 DETAINER REQUEST OR ADMINISTRATIVE WARRANT.

6 **SECTION 3.** In Colorado Revised Statutes, 16-4-110, **add** (1) (f)
7 as follows:

8 **16-4-110. Exoneration from bond liability.** (1) Any person
9 executing a bail bond as principal or as surety shall be exonerated as
10 follows:

11 (f) WHEN THE SURETY APPEARS AND PROVIDES SATISFACTORY
12 EVIDENCE TO THE COURT THAT THE DEFENDANT HAS BEEN REMOVED
13 PURSUANT TO ACTION BY A FEDERAL IMMIGRATION AGENCY WHILE ON
14 BOND OR THAT THE DEFENDANT HAS FAILED TO APPEAR DUE TO BEING IN
15 THE CUSTODY OF THE UNITED STATES RELATED TO THEIR IMMIGRATION
16 STATUS.

17 **SECTION 4.** In Colorado Revised Statutes, 16-4-114, **add** (5) (b)
18 (V) (D) as follows:

19 **16-4-114. Enforcement procedures for compensated sureties**
20 **- definitions.** (5) Liability of bond obligors on bonds issued by
21 compensated sureties may be enforced, without the necessity of an
22 independent action, as follows:

23 (b) (V) (D) A COMPENSATED SURETY SHALL BE EXONERATED
24 FROM LIABILITY UPON THE BOND WHEN THE SURETY PROVIDES
25 SATISFACTORY EVIDENCE TO THE COURT THAT THE DEFENDANT HAS BEEN
26 REMOVED PURSUANT TO ACTION BY A FEDERAL IMMIGRATION AGENCY
27 WHILE ON BOND OR THAT THE DEFENDANT HAS FAILED TO APPEAR DUE TO

1 BEING IN THE CUSTODY OF THE UNITED STATES RELATED TO THEIR
2 IMMIGRATION STATUS.

3 SECTION 5. In Colorado Revised Statutes, **repeal** 16-3-503.

4 SECTION 6. In Colorado Revised Statutes, **repeal** 17-26-137.

5 SECTION 7. **Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.