

# Bonding bill rewritten to address some concerns

Bill laid over until Tuesday

By [Joseph Boven](#) | 02.19.11 | 8:47 am

Colorado State Rep. Mark Barker, R-Colorado Springs, in committee agreed to change a key provision of his bonding bill which the [ACLU of Colorado said](#) could lead to racial discrimination and to citizens being unable to exercise their constitutional right to bail. Opponents of the bill say it is still not enough for them to end their opposition.

Current law states that bond agents are exempt from forfeiture of bond money if their client is removed from the country before reaching trial. However, the bill, HB11-1088, removes that exemption by asking bail bond agents to execute a waiver stating they understand that if a defendant is removed from the country the bond is forfeited to the state.

Controversially, the original bill would allow the investigating agency to use “reasonable grounds” to notify bonding agents that an individual was suspected of being an illegal immigrant. The standard, according to Barker, required the officer only to have the “impression” a person was illegally in the country.

The ACLU of Colorado lambasted the bill earlier this year, explaining that bail bonds agents would likely stop providing individuals, including citizens, with bail bonds, if such a standard were applied.

After speaking with the [County Sheriffs of Colorado](#), who were opposed to the measure on the grounds that it could force officers to use techniques that were racially discriminatory, Barker agreed to change the standard to probable cause.

“The sheriffs are conflicted on this bill in its current form. We will have to regrettably oppose it because reasonable suspicion is something that we are very concerned about,” Peg Ackerman, a spokesperson for the group, said. Reading from a letter by one of the sheriffs she said, “This bill requires us to investigate someone’s immigration status and determine whether there are reasonable grounds to determine if they are in the country illegally ... this bill assumes that any old Joe working in the jail can figure that out and it will ultimately result in a racial profile.”

Jesse Ulibayri, public policy director for the ACLU of Colorado, said that the lower standard of reasonable grounds could lead to problems for people who are here legally in the country including U.S. citizens.

The Sheriffs asked for probable cause and said that if ICE had a detainer on the person they would be okay with notifying the bondsman of the immigrant’s likely illegal status and be neutral on the bill.

[Peter Weir](#), who was representing the District Attorneys Council, told the Colorado Independent the bill had originated there and, as their representative, he felt that they “wouldn’t get heartburn” over

the change.

“This bill is about trying to ensure that individuals who are accused in the State of Colorado are available to be brought into court to have the case adjudicated,” Weir told the committee. “That is all we are trying to do in respect to this bill.”

However, opponents of the bill, including the ACLU of Colorado, Colorado Immigrant Rights Coalition and numerous immigration lawyers, said detainers did not equate to probable cause.

Philip Alterman, with the Immigration Attorneys Association, said the Immigration and Customs detainer request does not say that they have found the person to be removable. “They are not arrest warrants and do not create probable cause for arrest. The presence of a detainer is not indicative of a person’s immigration status.”

Joy Athanasiou, also a member of the Immigration Attorneys Association, told the committee that in many cases a person who ends up leaving the the country as the result of a voluntary removal does so despite the fact that they would prefer to face charges in a Colorado court.

She said a district attorney must first issue a writ for an individual to be transferred back for trial from ICE. However, if that does not occur, which is often the case, the individual is unable to return and is forced to leave.

“It is completely outside of the individual’s control whether they get back to the criminal courts. It is also from ICE’s standpoint outside of their duty unless they are served with a writ.”

She said she understood the need to fix the problem but said a proper fix would be better communication between a D.A.’s office and ICE.

The law also asks judges determining bail to look at immigration status when determining flight risk.

The bill was laid over for a vote until Tuesday.

[The bill is only one of several introduced this year to address immigration issues.](#)

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