



# Colorado Springs Independent

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## Wanted men

by [Chet Hardin](#)

Bills rarely attract a stronger group of supporters. Representatives from throughout the criminal justice world have lined up behind Senate Bill 11-186, the alternative bonding bill sponsored by Democratic Sen. **John Morse** and Republican Rep. **Mark Waller**, both of Colorado Springs.

Crafted from recommendations made in 2008 by the well-respected **Colorado Commission on Criminal and Juvenile Justice**, the legislation would establish an alternative bonding option, known as a **deposit bond**, in Colorado. It would be similar to bonds that exist in 28 other states, as well as in Washington, D.C. and the federal system.

In it, a judge sets bail. The defendant then pays a percentage of that bail, up to 15 percent, to the court. If the defendant shows for trial, he'll receive up to half of it back. (If convicted, he'll receive whatever is left over after fines, fees and restitution costs have been paid.) The rest of the money will wind up going to a county pretrial service agency, which works closely with the courts.

The bill is scheduled to be brought up in the Senate Appropriations Committee today. (It was scheduled to be heard April 15, but Morse was a no-show.) And what happens should highlight the strength of the bail bonds lobby in Colorado.

Bondsmen have been putting up a fight to defend their monopoly on a large, and profitable, industry. And the last time the state Legislature attempted to pass a similar bill, in 2008, it was withdrawn.

### Pretrial option

A pretrial service agency provides two unique services for the court. First, it gathers information about the defendant's ties to the community and family, and also about any issues such as alcoholism that might make the defendant less likely to show up for trial. Agency reps present that information to a judge during the bail hearings — which 4th Judicial District Attorney Dan May says is of considerable help.

The second function of pretrial services is to provide monitoring that can become a condition of a defendant's release on bond. This could mean a weekly urinalysis or drug test, curfews, even substance-abuse treatment and anger management classes, all paid for by the defendant.

Statewide, 10 jurisdictions have pretrial services programs. According to Sharon Winfree, president of Colorado Association of Pretrial Services, in those jurisdictions, fewer than 5 percent of defendants in the programs fail to appear for trial. In Larimer County, where she is located, it is fewer than 2 percent.

El Paso County eliminated its program in 2008 due to budget cuts, but Commissioner Sallie Clark, for one, says she would like to see the program reinstated.

State Public Defender Douglas Wilson supports the bill, and is a backer of pretrial services. As he puts it, "From the defense perspective, I don't even like pretrial services. Because if my client could be on bond without urinalysis, great, that means I don't have a new case [if the client tests positive]."

The "trade-off," he says, is that when a defendant complies with a judge's pretrial conditions, his lawyer has a great sentencing argument.

"The people who make it, it is going to help with their disposition in their case in front of the court," he says. Plus, he adds, when defendants with at-risk behavior are put in treatment programs, "it is substantially safer for the public."

### An industry threatened

Posting bond is big business. According to the Colorado Division of Criminal Justice, in 2010 there were 55,908 bonds posted to the tune of \$338 million. The bondsmen collect a non-refundable premium of up to 15 percent, and can demand collateral to cover the full bond.

Steve Mares, vice-president of the Professional Bail Agents of Colorado, argues that the state benefits from a robust bail bond industry. Its nearly 500 bail agents pay about \$500,000 in taxes a year, and license fees alone amount to \$40,000 a year.

And then there's the issue of what happens when someone skips bail. Currently, bondsmen cover those losses — to the tune of more than \$2 million a year. In addition, Mares says, they hunt the runners down.

Except that many law enforcement personnel say that doesn't really happen very much.

Arapahoe Sheriff J. Grayson Robinson, who sits on the Commission on Criminal and Juvenile Justice, says the majority of people who have skipped out on their bail are apprehended through routine contacts with law enforcement, such as traffic stops: "It is a very rare situation that a bondsman brings a fugitive into our facility."

A Jefferson County study has echoed Robinson's claim.

For his part, Mares swears it flies in the face of logic; how would bondsmen stay in business if they didn't track down those clients who ran? Regardless, he says what's motivating government in this push for change is the same thing he's accused of being motivated by: money.

"[Pretrial services] is a very helpful tool for the judges," he says. "And since 50 percent of the money that is collected by the court goes to help pay for these agencies, it would give judges added incentive [to use deposit bonds]."

Waller disagrees. He says there will still be defendants that judges won't trust to anything but a high-dollar bail. And he points out that while deposit bonds may have cost the industry some business in other states, they haven't killed it.

"The bonding agents are trying to pitch this as a growing government bill at the expense of the private sector," says Waller. "That is absolutely ridiculous and a complete bunk argument."

— [chet@csindy.com](mailto:chet@csindy.com)

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