

ADMINISTRATIVE ORDER 2022-04 RE: 7TH JUDICIAL DISTRICT PROCEDURES FOR BOND HEARING UNDER C.R.S. § 16-4-102(2)(a) FOR PERSONS ARRESTED IN THE 7TH JUDICIAL DISTRICT ON WARRANTS FROM OTHER DISTRICTS AND THOSE ARRESTED IN ANOTHER DISTRICT ON A WARRANT ISSUED BY A JUDICIAL OFFICER IN THE 7TH JUDICIAL DISTRICT

The purpose of this Administrative Order is to establish consistent and uniform procedures in the 7th Judicial District for scheduling bond hearings within forty-eight hours of arrest for adults arrested in another District on a bench or arrest warrant issued by a judge of the 7th Judicial District and circumstances where someone is arrested in the 7th Judicial District on a warrant issued in another Judicial District.

This order sets forth the 7th Judicial District's interpretation of the criteria and requirements of C.R.S. § 16-4-102(2), frequently referred to as the "forty-eight-hour bill," H.B. 21-1280. To comply with the forty-eight-hour bill, the 7th Judicial District will hold advisements on the weekends. For most weekends, those will occur on Sundays at 1:30 p.m. and will be conducted by the on-call judge.

In 2021, the Colorado General Assembly passed HB 21-1280, which amended Colorado's statute concerning the right to bail before conviction, C.R.S. §16-4-102. Included as part of the HB 21-1280 amendments is a provision requiring arresting agencies to bring in-custody arrestees before a court for bond setting as soon as practicable, but no later than forty-eight hours after the arrestee arrives at a jail or a holding facility. See particularly C.R.S. §16-4-102(1). Pursuant to the Colorado Constitution, Article II section § 16 (a) Victims of certain defined crimes have constitutional rights including the right to participate at critical stages of the proceedings. To the extent of conflict, constitutional rights supersede statutory rights, such as rights established in the 48 Hour Bill.

The Equal Protection Clause of the Fourteenth Amendment provides that no state shall "deny to any person within its jurisdiction equal protection of the laws." U.S. Const. amend. XIV, §1. Although the Colorado Constitution does not contain an express equal protection

clause, the Colorado Supreme Court has interpreted the Colorado Constitution to contain similar guarantees. Colo. Const. art. II, §25; *Dean v. People*, 366 P.3d 595, 596 (Colo. 2016). Thus, “equal protection of the laws assures the like treatment of all persons who are similarly situated.” *Id.* Therefore, if a Defendant cannot be advised in the Court that issued the warrant, given the purpose of the forty-eight hour bill and for equal protection purposes they shall be advised in the 7th Judicial District.

The schedule and call in information to appear for the weekend hearings in the 7th Judicial District is set out on Colorado Judicial Branch Website:

https://www.courts.state.co.us/Courts/County/BondHearingOfficeDistrict.cfm?District_ID=7.

The weekend advisements shall advise all persons arrested and detained in any of the four jails in the 7th Judicial District that are subject to the forty-eight-hour bill. This includes arrests with or without a warrant for local charges, and out-of-district warrants—of their rights pursuant to Criminal Rules of Procedure Rule 5.

Pursuant to 7th Judicial District Administrative Order 2020-21 RE: Out of District Warrants, persons appearing before a 7th Judicial District judicial officer for an out-of-county warrant Rule 5 advisement of rights will not have bail set or modified on the out-of-county warrant by our judicial officers, except in extraordinary circumstances, because the 7th Judicial District Attorney is not authorized to appear on behalf of the People for a case in another District, absent appointment as a special prosecutor in that other county. C.R.S. §20-1-102(1)(a) and for victim rights cases the local District Attorney will not have victim contact information. The district attorney from the county where the out-of-county warrant was issued has the right to notification and the right to appear for initial bail setting pursuant to C.R.S. §16-4-104(6).

The jails in the 7th Judicial District shall notify the jail in the county where the warrant was issued, and the originating jail shall attempt to contact the district attorney and arrange a hearing within the forty-eight hour period.

It is important for the judicial officers in the 7th Judicial District to apply a consistent approach to scheduling a hearing for persons detained in another county on a 7th Judicial District warrant and who are eligible for a bond hearing within forty-eight hours of arrest, to ensure similarly situated persons are provided equal protection of the law. Equally important is

the guidance provided to sheriffs throughout Colorado regarding the arrestees held in their jails as to which persons being detained on a 7th Judicial District warrant will be appearing before a judge in the 7th Judicial District within forty-eight hours of arrest. To the extent possible for weekends, jails shall be informed that they may call into the scheduled weekend advisement. Should the time conflict with the jail schedule or otherwise its ability to comply, the weekend on-call judge in the 7th shall be informed and shall coordinate the advisement on the next regularly scheduled advisement date and time.

BASED ON THE FORGOING, IT IS ORDERED:

1. Anyone detained in another District on a warrant issued by a judge in the 7th Judicial District where no bail is set on that warrant, are required to appear within forty-eight hours of arrest before a 7th Judicial District judge for a bond setting.
2. If the person is unable to post bail on the 7th Judicial District warrant and that person is not detained on any other holds in the District where the person is being detained, the sheriff in the 7th Judicial District and the sheriff where the person is being held shall arrange for a video appearance or the transportation of the person from the other county to the 7th Judicial District Jail, pursuant to the provisions of Crim.P. 5(a)(3) (district court cases) or Crim.P. 5(c)(3) (county court cases).
3. The person being detained in another District on a 7th Judicial District warrant where bail has been set on the warrant may also file a writ with the 7th Judicial District court that issued the warrant, requesting an in-person or a video appearance before that court to address the warrant, a reconsideration of the monetary condition of bond, or request a bond modification hearing.
4. Persons held in another District on a 7th Judicial District arrest or bench warrant where no individualized bond has been set on the warrant will appear before a 7th Judicial District court by video within forty-eight hours of arrest for bond setting and a Rule 5 advisement of

rights. In the event the detaining jail cannot facilitate the schedule, the judge covering the advisements shall be informed to facilitate advisement within the 48 hours.

Dated: March 29, 2022.

BY THE COURT:



J. Steven Patrick
Chief Judge

XC: 7th JD Judges
7th JD Clerks of Court
7th Judicial District Sheriffs/Jails
Office of the Public Defender, 7th Judicial District
7th Judicial District, District Attorney