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May 17, 2016

The Honorable John W. Hickenlooper  
Governor of Colorado  
136 State Capitol  
Denver, CO 80203-1792

Dear Governor Hickenlooper:

The Town of New Castle Town Council strongly urges you to exercise your power to veto House Bill 16-1309, which would require public defenders at each session of jail advisements in municipal court.

The Town of New Castle is a small municipality on the Western Slope with limited resources. Municipal Court occurs in the Council chambers. Jail sentences are rarely imposed – most cases are resolved with fines.

This is an unfunded mandate. Employing an attorney and paying him or her to wait during municipal court advisements on the minimal chance that a defendant meets the requirements of the bill would be a waste of taxpayer dollars.

The New Castle Municipal Court already complies with the requirements of the United States and Colorado Constitutions concerning defendants' right to counsel. When a defendant requests the assistance of counsel and falls within the Financial Guidelines promulgated by the Chief Justice of the Colorado Supreme Court, an attorney is appointed and paid for by the Town. Adding additional requirements as mandated by this bill would cause unnecessary continuation of cases and may push more cases into the already over-worked county court system of public defenders, which would force these defendants to travel to the county court in Rifle.

This bill will have a detrimental impact on municipalities in rural areas such as New Castle. There is presently only one law office in the entire town, so most likely a public defender would need to be hired and paid to travel from Glenwood Springs, Rifle, or Grand Junction.

Please veto this bill. Thank you.

Sincerely,

TOWN OF NEW CASTLE

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Art Riddile, Mayor

cc: Doug Friednash, Office of the Governor  
Alan Salazar, Office of the Governor  
Kurtis T. Morrison, Office of the Governor, [kurtis.morrison@state.co.us](mailto:kurtis.morrison@state.co.us)

# HB 16-1309



BUILDING A STRONG PARTNERSHIP WITH COLORADO'S CITIES AND TOWNS

## MUNICIPAL COURTS

### RIGHT TO COUNSEL AT FIRST APPEARANCE

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#### HB 16-1309 - YOUR "NO" VOTE RESPECTFULLY REQUESTED

HB 16-1309 requires the presence of a public defender at each session of jail advisements which are scheduled daily in many municipal courts. **HB 16-1309 disproportionately effects rural communities, provides protections that are already provided to defendants, creates several unintended consequences, and is logistically near impossible to implement without adequate state funding.**

**The bill is unnecessary.**

The appointment of counsel for defendants being held on municipal charges is already required under the U.S. Constitution and the Colorado Constitution. If the defendant is not released on a charge at the first appearance, the municipal court must appoint counsel. Currently, the attorney then appears at the next court appearance after time to review the case, meet with the defendant and formulate appropriate legal advice.

**The appointment of attorney may result in a case to be unnecessarily continued.**

Many municipal cases are resolved at the first appearance, often with credit for time served or a fine. These defendants are then released. The presence of an attorney with no ability to advise a defendant will unnecessarily delay the process, since a continuance must occur to allow the attorney to review the case reports and file.

**Most arrests occur after the defendant has failed to appear on a summons.**

Courts generally grant personal recognizance bonds (P.R. bonds) when the defendant has failed to appear a few times on a case; but after numerous missed court dates, the court must consider the unnecessary waste of taxpayer resources with numerous arrests for the same charge. The court then has good reason to keep the defendant in custody to resolve the case. Municipal cases are often resolved at the first appearance allowing the court to release the defendant immediately with credit for time served or with an alternative sentence such as a fine or community service.

**HB 16-1309 is unfunded state mandate.**

This bill directly contradicts C.R.S. 29-1-304.5 which states:

*"(1) No new state mandate or an increase in the level of service for an existing state mandate beyond the existing level of service required by law shall be mandated by the general assembly or any state agency on any local government unless the state provides additional moneys to reimburse such local government for the costs of such new state mandate or such increased level of service. In the event that such additional moneys for reimbursement are not provided, such mandate or increased level of service for an existing state mandate shall be optional on the part of the local government."*