



April 28, 2025

Dear Governor Polis,

I write on behalf of the National Association of Criminal Defense Lawyers (NACDL) and urge you to sign HB-1147, a bill which promotes and protects fairness in Colorado's courts, into law. HB-1147 provides critical protections that ensure individuals facing criminal charges have access to independent, resourced, and effective counsel; promotes community confidence in our legal institutions; and ensures the state fulfills its constitutional obligations to promote a meaningful right to counsel.

NACDL is a non-profit voluntary professional bar association that promotes a society in which all individuals receive fair, rational, and humane treatment within the criminal legal system. To that end, NACDL seeks to identify and reform systemic flaws and inequities and ensure that its members and others in the criminal defense system are fully equipped to serve all accused persons at the highest level. Founded in 1958, NACDL's more than 10,000 direct members -- and 90 state and local affiliate organizations representing thousands more -- include private criminal defense lawyers, public defenders, U.S. military defense counsel, law professors, and judges dedicated to advancing the proper, fair, and efficient administration of justice.¹

HB-1147's counsel requirements are constitutional and critical. **Every person in Colorado who faces a criminal charge has the right to meaningful, zealous representation and the responsibility for ensuring that right is upheld lies squarely with the state.** That cannot occur if municipalities remain able to utilize low bid contracts for their municipal court public defense services. In fact, the more local courts ratchet up their penalties, the more critical it becomes for the state to ensure that the individuals appearing in those courts have access to counsel with the time, resources, and independence to be their robust advocates.

It is the duty of the state to ensure the right to counsel. HB-1147 makes sure that right is upheld by prohibiting localities from selling duty to provide counsel to the lowest bidder.

Today in Colorado the degree of justice a person receives is tied to which box on a form a police officer checks. Those sent to state court:

- Will appear with a well-resourced attorney by their side who will explain their rights and advocate for their liberty each and every step of the way.
- Their attorney will have the independence to stand up to the state.
- And staff to investigate their case and connect them with the services they need.

¹ NACDL has issued numerous reports examining public defense systems in states such as [Florida](#), [Louisiana](#), [South Carolina](#), and [Texas](#) as well as an examination of the Federal Indigent Defense System ([Federal Indigent Defense 2015: The Independence Imperative](#)). NACDL has also served as amicus on filings related to the provision of public defense services in state and local courts including [Hurrell-Harring v. State of New York](#), [Tucker v. Idaho](#), [Kuren v. Luzerne County](#), and currently serve as co-counsel in [litigation in Wisconsin](#) addressing the state's inability to timely provide lawyers to eligible defendants ([Antrell Thomas, et al. v. Anthony Evers](#), 2022CV001027 (Brown Cir.)).

But if their case is sent to municipal court, they may appear before the judge all alone.

- Despite being innocent, they may feel compelled to plead guilty because requesting a lawyer can mean spending additional days or even weeks in jail.
- If they do get counsel, that lawyer may be working under a flat fee contract where they are forced into an impossible choice -- providing a zealous defense or paying their employees, their overhead, and their own salaries.

Flat fee contracts not only undermine an effective defense but often cost communities more than they save. A [2021 study in North Carolina](#) revealed that compared to those paid an hourly rate, cases handled by flat fee contractors had

- An 11% higher conviction rate.
- A nearly 40% increase in the number of people receiving a jail sentence.
- And involved markedly fewer attorney-client contacts over the course of the case.

Even if the contract lawyer is a zealous advocate, the perception that representation has been auctioned off to the lowest bidder causes the public to lose confidence in the legal system.

Moreover, under the current structure, many of these municipalities fail to ensure access to counsel occurs promptly. National standards call for ensuring access to counsel at the initial appearance.² This is supported by research which shows that the first day of a case is among the most critical. As compared to their similarly charged and similarly situated peers, those released within the first 24 hours are:

- Likely to be convicted.
- Less likely to be sentenced to incarceration.
- More likely to appear for court, to avoid re-arrest while their case is pending, and to avoid re-arrest after it concludes.

Colorado's current system prioritizes cost over constitutional rights. HB25-1147 helps restore balance, ensuring a defense that can protect against government abuse and overreach, prevent wrongful convictions, connect people to services that reduce recidivism, promote fair trials, and inspire public confidence. Colorado needs to act to close the justice gap and ensure those appearing in municipal courts have the same constitutional protections.

Everyone deserves a fair defense which is why NACDL urges you to sign HB25-1147 into law.



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² See e.g., [ABA Standards](#) For Criminal Justice: Providing Defense Services 5-6.1; [NACDL Resolution](#) Urging Recognition of a Right to Counsel at Initial Appearance (Feb. 2012); [NLADA](#), Access to Counsel at First Appearance: A key component of pretrial justice (Feb. 2022).