

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0680.01 Jerry Barry x4341

SENATE BILL 19-047

SENATE SPONSORSHIP

Hisey,

HOUSE SPONSORSHIP

Buentello,

Senate Committees
Local Government

House Committees

A BILL FOR AN ACT

101 **CONCERNING REMOVAL OF UNAUTHORIZED PERSONS FROM VACANT**
102 **LAND.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law provides a procedure, in lieu of an eviction, to remove unauthorized persons from residential property. The bill expands the alternative procedure to authorize removal of unauthorized persons from vacant land.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-40.1-101, **amend**
3 (1)(b)(I), (2), (4)(b)(I), (4)(b)(III), (4)(c), (5)(b), and (5)(c); and **add**
4 (1)(c) as follows:

5 **13-40.1-101. Removal of unauthorized persons - definitions.**

6 (1) As used in this article 40.1, unless the context otherwise requires:

7 (b) (I) "Unauthorized person" means a person who occupies an
8 uninhabited or vacant residential premises, OR VACANT LAND, without any
9 current or prior agreement or consent of the owner or an authorized agent
10 of the owner, whether written or oral, concerning the use of the
11 residential premises OR VACANT LAND.

12 (c) "VACANT LAND" MEANS ANY LOT, PARCEL, SITE, OR TRACT OF
13 LAND UPON WHICH NO BUILDINGS OR FIXTURES, OTHER THAN MINOR
14 STRUCTURES, ARE LOCATED; OR THE VACANT PORTION OF A LOT, SITE, OR
15 TRACT ON WHICH A RESIDENTIAL PREMISES IS LOCATED.

16 (2) The owner of a residential premises OR VACANT LAND, or his
17 or her authorized agent, may initiate the investigation of and request the
18 removal of an unauthorized person or persons from the residential
19 premises OR VACANT LAND by filing with the county court a complaint
20 and a verified motion for a temporary mandatory injunction restoring
21 possession of the residential ~~property~~ PREMISES OR VACANT LAND to the
22 owner or lawful occupant. To the extent known or reasonably
23 ascertainable, the verified motion must identify the unauthorized person
24 or persons and include statements substantially as follows:

25 VERIFIED MOTION FOR ORDER TO
26 REMOVE UNAUTHORIZED PERSONS
27 The undersigned owner, or authorized agent of the

1 owner, of the residential premises OR VACANT LAND located
2 at _____ requests that the court hold a hearing within one
3 court day and that the court enter a temporary mandatory
4 injunction and issue a writ of restitution ordering that the
5 person or persons currently occupying the residential
6 premises OR VACANT LAND be removed from the premises
7 OR LAND and be ordered not to return to the premises OR
8 LAND for a period of fourteen days. In support of the
9 request, the undersigned owner or authorized agent hereby
10 represents and declares under the penalty of perjury that
11 (initial each box):

12 1. The declarant is the owner of the premises OR LAND
13 or the authorized agent of the owner of the premises OR
14 LAND;

15 2. An unauthorized person or persons have entered and
16 are remaining unlawfully on the premises OR LAND;

17 3. Neither the owner nor an authorized agent of the
18 owner has ever given permission for the unauthorized
19 person or persons to enter and remain on the premises OR
20 LAND;

21 4. Neither the owner nor an authorized agent of the
22 owner has ever had a written or oral agreement with the
23 unauthorized person or persons regarding the use of the
24 premises OR LAND;

25 5. Neither the owner nor an authorized agent of the
26 owner is related to the unauthorized person or persons;

27 6. Neither the owner nor an authorized agent of the

1 owner has ever accepted money or anything of value from
2 the unauthorized person or persons regarding the use of the
3 premises OR LAND;

4 7. [] The declarant has demanded that the unauthorized
5 person or persons vacate the premises OR LAND but they
6 have not done so;

7 8. [] The declarant has informed the unauthorized person
8 or persons that he or she is going to court to request a
9 temporary mandatory injunction restoring the owner to
10 possession and shall deliver a copy of this Verified Motion
11 for Order to Remove Unauthorized Persons Form to the
12 unauthorized person or persons;

13 9. [] Additional optional explanatory comments or
14 statement that the premises has been altered or damaged:

15

16 (4) (b) (I) The summons, complaint, motion, and notice required
17 by subsection (4)(b)(III) of this section ~~shall~~ MUST either be served by
18 personal service upon the defendant, as in any civil action, by a person
19 qualified under the Colorado rules of county court civil procedure to
20 serve process, or such person may make service by posting a copy of the
21 summons, complaint, motion, and notice required by subsection
22 (4)(b)(III) of this section in some conspicuous place upon the
23 RESIDENTIAL premises OR VACANT LAND.

24 (III) The written notice of the date, time, and location of the
25 hearing must be served with the complaint. The notice must be printed in
26 black ink and have a font size of not less than twelve and in substantially
27 the following form:

1 NOTICE

2 On [date], [year], at [time] in Courtroom [number],
3 [courthouse name], [courthouse address], the Court will
4 hold a hearing on a Motion for an Order for Temporary
5 Mandatory Injunction and writ of restitution in order to
6 require the removal from the residential premises OR
7 VACANT LAND located at [residential premises address OR
8 VACANT LAND ADDRESS] of each unauthorized person
9 identified in the motion that accompanies this notice. If you
10 are identified as an unauthorized person and if you believe
11 that is not true, then you must attend the hearing and
12 present any evidence supporting your position. **IF YOU**
13 **FAIL TO ATTEND THE HEARING, THE COURT**
14 **MAY ENTER AN ORDER INSTRUCTING THE**
15 **SHERIFF TO REMOVE YOU FROM THE**
16 **RESIDENTIAL PREMISES OR VACANT LAND**
17 **IMMEDIATELY.**

18 (c) Any occupant of the residential premises OR VACANT LAND
19 who disputes that he or she is an unauthorized person may appear at the
20 hearing and must be permitted to provide testimony and other evidence
21 that the occupant is not an unauthorized person. The court, in its
22 discretion, may accept a written statement submitted to the court prior to
23 the commencement of the hearing in lieu of personal testimony from the
24 occupant.

25 (5) (b) No later than twenty-four hours after receipt of order for
26 temporary mandatory injunction, a sheriff, undersheriff, or deputy sheriff,
27 as described in section 16-2.5-103 (1) or (2), while off duty or on duty at

1 rates charged by the employing sheriff's office in accordance with section
2 30-1-104 (1)(gg), shall:

3 (I) Remove the person or persons from the residential premises OR
4 VACANT LAND, with or without arresting the person or persons; and

5 (II) Order the person or persons to remain off the residential
6 premises OR VACANT LAND or be subject to arrest for criminal trespass.

7 (c) If the motion filed with the county court includes a statement
8 that the PREMISES OR property has been altered or damaged or the sheriff,
9 undersheriff, or deputy sheriff sees evidence that the PREMISES OR
10 property has been altered or damaged, the sheriff, undersheriff, or deputy
11 sheriff shall collect personal information from the person or persons and
12 shall provide that information to the declarant.

13 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-21-130 as
14 follows:

15 **13-21-130. Civil liability for false statement to recover**
16 **possession of real property.** In addition to any other remedies, a person
17 removed from a residential premises OR VACANT LAND pursuant to section
18 13-40.1-101 on the basis of false statements made by a declarant has a
19 private cause of action against the declarant. In the action, the plaintiff is
20 entitled to actual damages, attorney fees, and costs.

21 **SECTION 3.** In Colorado Revised Statutes, 13-40.1-102, **amend**
22 (1) as follows:

23 **13-40.1-102. Unauthorized alteration or damage of a**
24 **residential property.** (1) If a person's conduct satisfies all of the
25 elements of section 18-4-501, the person who is removed from a
26 residential ~~property~~ PREMISES OR VACANT LAND pursuant to section
27 13-40.1-101 and who knowingly damages the real or personal property

1 of one or more other persons may have committed criminal mischief.

2 **SECTION 4. Act subject to petition - effective date -**

3 **applicability.** (1) This act takes effect September 1, 2019; except that,

4 if a referendum petition is filed pursuant to section 1 (3) of article V of

5 the state constitution against this act or an item, section, or part of this act

6 within the ninety-day period after final adjournment of the general

7 assembly, then the act, item, section, or part will not take effect unless

8 approved by the people at the general election to be held in November

9 2020 and, in such case, will take effect on the date of the official

10 declaration of the vote thereon by the governor.

11 (2) This act applies to requests for removal and offenses

12 committed on or after the applicable effective date of this act.