

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0650.01 Shelby Ross x4510

HOUSE BILL 25-1235

HOUSE SPONSORSHIP

Bacon and Woodrow,

SENATE SPONSORSHIP

Gonzales J. and Weissman,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MATTERS RELATED TO TENANT PROCEEDINGS, AND, IN
102 CONNECTION THEREWITH, AFFORDING THE RIGHT TO A JURY
103 TRIAL IN AN ACTION FOR UNLAWFUL DETENTION OF REAL
104 PROPERTY, PERSONAL SERVICE REQUIREMENTS, REQUIREMENTS
105 FOR SETTING THE TRIAL DATE, PERMITTING REMOTE
106 APPEARANCES AT A JURY TRIAL, REQUIRING SECURITY IN CASES
107 OF TRIAL CONTINUANCES, AND PROHIBITING WAIVING THE
108 RIGHT TO A JURY TRIAL.

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

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

<http://leg.colorado.gov>.)

The bill affords a plaintiff and defendant the right to trial by jury in any action brought for unlawful detention of real property.

The bill requires at least one attempt on 3 separate days of personal service on the defendant in an action for unlawful detention of real property. The bill requires an affidavit of service to be filed with the court.

The bill requires a defendant who demands a trial by jury to make the demand in accordance with the Colorado rules of civil procedure or file a separate jury demand with the defendant's answer. The bill requires the court to set the date for trial no sooner than 10 days after the answer is filed. The bill authorizes the court to continue the trial if a party demands a trial by jury.

The bill authorizes the court to allow either party, counsel for either party, and any witness to appear remotely by phone or video at a jury trial as an accommodation for a person with a disability or upon adequate assurances that the remote participation will not cause unreasonable delay.

If either party requests a delay in a trial longer than 14 days, the bill authorizes the court, in the court's discretion upon a showing of a party's substantial likelihood of suffering serious economic harm, to require either party to give bond or other security to the opposite party for the sum that the party may be harmed due to the delay. The party required to make payment to the court must be given at least 7 days after the court's order to make the payment. If the party fails to make payment within the time required, the bill authorizes the court to extend the time for compliance or reset the hearing or trial for the next available date, but the court is prohibited from entering a default against the party. Upon a showing of indigency by the party required to make payment, the bill requires the court to waive or reduce the bond or other security, provide additional time to make payment, and permit the party to make multiple partial payments.

Current law prohibits a written rental agreement from including a waiver of the right to a jury trial, except when the parties agree to a waiver of a jury in a hearing to determine possession of a dwelling unit. The bill removes this exemption.

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

2 **SECTION 1.** In Colorado Revised Statutes, 13-40-110, **amend**

3 (1)(a) introductory portion; and **add** (1.5) as follows:

4 **13-40-110. Action - how commenced - report.** (1) (a) An action

1 pursuant to this article 40 is commenced by filing with the court a
2 complaint in writing using the standard form of eviction complaint and
3 affidavit for a residential tenancy that is available online through the
4 judicial department's website to describe the property with reasonable
5 certainty; the street address and the zip code, listed separately; the
6 grounds for recovery; the name of the person in possession or occupancy;
7 a prayer for recovery of possession; WHETHER A TRIAL BY JURY OR BY THE
8 COURT IS DEMANDED; and a signed affidavit that states:

9 (1.5) A PLAINTIFF IN ANY ACTION BROUGHT PURSUANT TO THIS
10 ARTICLE 40 HAS A RIGHT TO TRIAL BY JURY TO DECIDE ALL ISSUES OF FACT.

11 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-40-112 as
12 follows:

13 **13-40-112. Service - definitions.** (1) ~~Such~~ A summons may be
14 served by personal service as in any civil action. A copy of the complaint
15 AND ALL OTHER DOCUMENTS REQUIRED BY LAW must be served with the
16 summons.

17 (2) If personal service cannot be ~~had~~ MADE upon the defendant by
18 a person qualified under the Colorado rules of civil procedure to serve
19 process, after having made diligent effort to make ~~such~~ THE personal
20 service ~~such~~ AT LEAST ONE TIME ON THREE SEPARATE DAYS, THE person
21 may make service by posting a copy of the summons, ~~and~~ the complaint,
22 AND ALL OTHER DOCUMENTS REQUIRED BY LAW in some conspicuous
23 place upon the premises. In addition, ~~thereto~~, the plaintiff shall mail, no
24 later than the next business day following the day on which ~~he or she~~ THE
25 PLAINTIFF files the complaint, a copy of the summons, or, in the event that
26 an alias summons is issued, a copy of the alias summons, ~~and~~ a copy of
27 the complaint, AND ALL OTHER DOCUMENTS REQUIRED BY LAW to ~~the~~

1 EACH defendant at the premises by postage prepaid, first-class mail.

2 (3) (a) Personal service or service by posting ~~shall~~ MUST be made
3 at least seven days before the day for appearance specified in ~~such~~ THE
4 summons, and ~~the time and manner of such service shall be endorsed~~
5 ~~upon such summons by the person making service thereof~~ AN AFFIDAVIT
6 OF SERVICE MUST BE FILED WITH THE COURT AND INCLUDE THE
7 FOLLOWING:

8 (I) THE DATE, TIME, AND MANNER OF SERVICE;

9 (II) THE PERSON'S SIGNATURE WHO SERVED PROCESS AND WHO IS
10 QUALIFIED UNDER THE COLORADO RULES OF CIVIL PROCEDURE TO SERVE
11 PROCESS; AND

12 (III) IF SERVICE IS MADE BY POSTING A COPY OF THE SUMMONS
13 PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE DATE, TIME, AND
14 ADDRESS OR DESCRIPTION OF THE LOCATION OF EACH ATTEMPT AT
15 PERSONAL SERVICE, A DETAILED DESCRIPTION OF THE EFFORTS USED TO
16 ACCOMPLISH THE PERSONAL SERVICE, AND A DATE- AND TIME-STAMPED
17 PHOTOGRAPH OF THE SERVED DOCUMENTS POSTED IN SOME CONSPICUOUS
18 PLACE UPON THE PREMISES.

19 (b) IF SERVICE IS MADE BY POSTING A COPY OF THE SUMMONS
20 PURSUANT TO SUBSECTION (2) OF THIS SECTION, A COPY OF THE AFFIDAVIT
21 OF SERVICE DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION MUST BE
22 MAILED TO EACH DEFENDANT AT THE PREMISES BY POSTAGE PREPAID,
23 FIRST-CLASS MAIL NO LATER THAN TWO BUSINESS DAYS AFTER SERVICE BY
24 POSTING IS MADE.

25 (4) ~~For purposes of~~ AS USED IN this section, UNLESS THE CONTEXT
26 OTHERWISE REQUIRES:

27 (a) "Business days" means any calendar day excluding Saturdays,

1 Sundays, and legal holidays.

2 (b) "DILIGENT EFFORT TO MAKE THE PERSONAL SERVICE" MEANS
3 USING REASONABLE EFFORT, UNDER ALL CIRCUMSTANCES THAT THE
4 PLAINTIFF HAS ACTUAL OR CONSTRUCTIVE NOTICE OF, TO PROVIDE
5 PERSONAL SERVICE TO EACH DEFENDANT.

6 **SECTION 3.** In Colorado Revised Statutes, 13-40-113, **amend**
7 (4)(a); and **add** (1.5) as follows:

8 **13-40-113. Answer of defendant - additional and amended**
9 **pleadings.** (1.5) A DEFENDANT IN ANY ACTION BROUGHT PURSUANT TO
10 THIS ARTICLE 40 HAS A RIGHT TO TRIAL BY JURY TO DECIDE ALL ISSUES OF
11 FACT. A DEFENDANT WHO DEMANDS A TRIAL BY JURY SHALL MAKE THE
12 DEMAND IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL
13 PROCEDURE OR FILE A SEPARATE JURY DEMAND WITH THE DEFENDANT'S
14 ANSWER.

15 (4) After an answer is provided to the court pursuant to this
16 section:

17 (a) The court shall set a date for trial no sooner than ~~seven, but not~~
18 ~~more than~~ ten days after the answer is filed, unless the defendant requests
19 a waiver of this requirement in the defendant's answer or after filing an
20 answer. ~~except that~~ A court may ~~extend beyond ten days~~ CONTINUE THE
21 TRIAL if either party demonstrates good cause for ~~an extension~~ A
22 CONTINUATION, if the court otherwise finds justification for the ~~extension;~~
23 ~~or~~ CONTINUATION, if a party participating remotely pursuant to section
24 13-40-113.5 was disconnected and unable to reestablish connection, ~~The~~
25 ~~requirement set forth in this subsection (4)(a) does not apply to a forcible~~
26 ~~entry and detainer petition that alleges a substantial violation, as defined~~
27 ~~in section 13-40-107.5 (3), or terminates a tenancy pursuant to section~~

1 ~~38-12-203 (1)(f)~~ OR IF A PARTY DEMANDS A TRIAL BY JURY.

2 **SECTION 4.** In Colorado Revised Statutes, 13-40-113.5, **amend**
3 (1)(a) as follows:

4 **13-40-113.5. Residential actions in county court - remote**
5 **participation - electronic filing - procedures for technology failure -**
6 **auxiliary services providers.** (1) For a residential action filed in county
7 court pursuant to this article 40:

8 (a) (I) The court shall allow either party, COUNSEL FOR EITHER
9 PARTY, and any witness to choose to appear in person or remotely by
10 phone or video on a platform designated by the court at any return,
11 conference, hearing, BENCH trial, or other court proceeding WITHOUT A
12 JURY. Either party and any witness may elect to change how the party or
13 witness intends to participate by contacting the court; except that, if a
14 party or witness contacts the court within forty-eight hours of the
15 scheduled appearance, the court has discretion whether to approve the
16 party or witness's requested change in participation.

17 (II) THE COURT MAY ALLOW EITHER PARTY, COUNSEL FOR EITHER
18 PARTY, AND ANY WITNESS TO CHOOSE TO APPEAR REMOTELY BY PHONE OR
19 VIDEO ON A PLATFORM DESIGNATED BY THE COURT AT ANY TRIAL OR
20 HEARING WITH A JURY AS AN ACCOMMODATION FOR A PERSON WITH A
21 DISABILITY, OR UPON ADEQUATE ASSURANCES BY THE PARTY REQUESTING
22 TO APPEAR REMOTELY THAT THE REMOTE PARTICIPATION WILL NOT CAUSE
23 UNREASONABLE DELAY.

24 **SECTION 5.** In Colorado Revised Statutes, **amend** 13-40-114 as
25 follows:

26 **13-40-114. Delay in trial - bond or other security -**
27 **nonpayment.** (1) If either party requests a delay in trial longer than ~~five~~

1 FOURTEEN days, the court in its discretion may, upon ~~good cause shown~~
2 A SHOWING OF A PARTY'S SUBSTANTIAL LIKELIHOOD OF SUFFERING
3 SERIOUS ECONOMIC HARM, require either of the parties to give bond or
4 other security approved and fixed by the court in an amount ~~for the~~
5 ~~payment to the opposite party of such~~ FOR THE sum ~~as he~~ THAT THE PARTY
6 may be ~~damaged~~ HARMED due to the delay.

7 (2) (a) A PARTY REQUIRED TO GIVE BOND OR OTHER SECURITY
8 PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST BE GIVEN AT LEAST
9 SEVEN DAYS AFTER THE COURT'S ORDER TO MAKE PAYMENT TO THE
10 COURT. THE COURT SHALL CALCULATE THE BOND OR OTHER SECURITY AT
11 A REASONABLE AMOUNT TO SECURE THE OPPOSITE PARTY AGAINST THE
12 SERIOUS ECONOMIC HARM DUE TO THE DELAY AND TO ENSURE THE PARTY
13 ORDERED TO PAY HAS THE MEANS NECESSARY AND A FAIR OPPORTUNITY
14 TO COMPLY WITH THE ORDER.

15 (b) IF THE PARTY ORDERED TO GIVE BOND OR OTHER SECURITY
16 FAILS TO MAKE PAYMENT TO THE COURT WITHIN THE TIME REQUIRED
17 PURSUANT TO THIS SUBSECTION (2), THE COURT MAY EITHER EXTEND THE
18 TIME FOR COMPLIANCE UPON SHOWING OF GOOD CAUSE OR, IN THE
19 ABSENCE OF GOOD CAUSE, RESET THE HEARING OR TRIAL FOR THE NEXT
20 AVAILABLE DATE, BUT THE COURT SHALL NOT ENTER A DEFAULT AGAINST
21 THE PARTY.

22 (3) UPON A SHOWING OF INDIGENCY BY THE PARTY REQUIRED TO
23 MAKE PAYMENT TO THE COURT, THE COURT SHALL WAIVE OR REDUCE THE
24 BOND OR OTHER SECURITY, PROVIDE ADDITIONAL TIME TO MAKE
25 PAYMENT, OR PERMIT THE PARTY TO MAKE MULTIPLE PARTIAL PAYMENTS.

26 (4) IN AN ACTION BROUGHT PURSUANT TO SECTION 13-40-104
27 (1)(d) FOR NONPAYMENT OF RENT, THE BOND OR OTHER SECURITY MUST

1 NOT EXCEED ONE MONTHLY RENTAL PAYMENT PURSUANT TO THE RENTAL
2 AGREEMENT.

3 **SECTION 6.** In Colorado Revised Statutes, 13-40-115, **amend**
4 (1) and (2) as follows:

5 **13-40-115. Judgment - writ of restitution - cure period.**

6 (1) Upon ~~the trial~~ A TRIAL BY JURY OR TRIAL BY THE COURT of any action
7 ~~under this article~~ BROUGHT PURSUANT TO THIS ARTICLE 40, if service was
8 had only by posting in accordance with section 13-40-112 (2) and if the
9 JURY OR court finds that the defendant has committed an unlawful
10 detainer, the court shall enter judgment for the plaintiff to have restitution
11 of the premises and shall issue a writ of restitution. The court may also
12 continue the case for further hearing from time to time and may issue
13 alias and pluries summonses until personal service upon the defendant is
14 ~~had~~ MADE.

15 (2) Upon a trial or further hearing pursuant to this article 40 after
16 personal service has been made upon the defendant in accordance with
17 section 13-40-112 (1), if the court or jury has not already tried the issue
18 of unlawful detainer, it may do so. If the court OR JURY finds that the
19 defendant has committed an unlawful detainer, the court shall enter
20 judgment for the plaintiff to have restitution of the premises and shall
21 issue a writ of restitution. In addition to the judgment for restitution, the
22 court or jury shall further find the amount of rent, if any, due to the
23 plaintiff from the defendant at the time of trial; the amount of damages,
24 if any, sustained by the plaintiff to the time of the trial on account of the
25 unlawful detention of the property by the defendant; and damages
26 sustained by the plaintiff to the time of trial on account of injuries to the
27 property. The court shall enter judgment for such amounts, together with

1 any reasonable attorney fees and costs as in other civil actions. This
2 section does not permit the entry of judgment in excess of the court's
3 jurisdictional limit.

4 **SECTION 7.** In Colorado Revised Statutes, 38-12-801, **amend**
5 (3)(a)(III)(A) as follows:

6 **38-12-801. Written rental agreement - prohibited clauses -**
7 **copy - tenant - applicability - definitions.** (3) (a) A written rental
8 agreement must not include:

9 (III) A waiver of:

10 (A) The right to a jury trial; ~~except that the parties may agree to~~
11 ~~a waiver of a jury trial in a hearing to determine possession of a dwelling~~
12 ~~unit;~~

13 **SECTION 8. Safety clause.** The general assembly finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety or for appropriations for
16 the support and maintenance of the departments of the state and state
17 institutions.