

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

INTRODUCED

LLS NO. 17-0782.01 Jerry Barry x4341

HOUSE BILL 17-1142

HOUSE SPONSORSHIP

Jackson,

SENATE SPONSORSHIP

Gardner,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CERTAIN COURT PROCEEDINGS.**

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>.)

Under current law, the clerk of the court mails notice of the filing of certain petitions and the date and time of hearings on the petition to specified interested parties by registered mail. The bill changes the process so the clerk of the court may send the notice by first-class mail or electronically using the e-filing system of the judicial department.

Under current law, if a respondent in a domestic relations action cannot be personally served and is served by publication, the clerk of the court is required to post a copy of the process on a bulletin board in the

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

clerk's office for 35 days after the date of publication and may post the notice online on the court's website. The bill gives the clerk the option of posting the notice online on the court's website rather than on a bulletin board.

The bill also updates the time frame for holding certain hearings to multiples of 7 days.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 32-1-304 as
3 follows:

4 **32-1-304. Notice of court hearing.** Except as otherwise provided
5 in section 32-1-304.5, immediately after the filing of a petition, the court
6 wherein the petition is filed, by order, shall fix a place and time, not less
7 than ~~twenty~~ TWENTY-ONE days nor more than ~~forty~~ FORTY-TWO days after
8 the petition is filed, for hearing thereon. ~~Thereupon~~ The clerk of the court
9 shall cause notice by publication to be made of the pendency of the
10 petition, the purposes and boundaries of the special district, and the time
11 and place of hearing thereon. The clerk of the court shall also forthwith
12 cause a copy of the notice to be ~~mailed~~ SENT by United States ~~registered~~
13 FIRST-CLASS mail OR BY ELECTRONIC SERVICE USING THE E-FILING SYSTEM
14 OF THE JUDICIAL DEPARTMENT to the board of county commissioners of
15 each of the several counties and to each party entitled to notice pursuant
16 to section 32-1-206 (2). The notice ~~shall~~ MUST include a general
17 description of the land contained within the boundaries of the proposed
18 special district and information explaining methods and procedures for
19 the filing of a petition for exclusion of territory pursuant to section
20 32-1-305 (3).

21 **SECTION 2.** In Colorado Revised Statutes, 37-2-104, **amend** (1)
22 as follows:

1 **37-2-104. Notice of hearing on petition.** (1) Immediately after
2 the filing of such petition, the court wherein ~~such~~ THE petition is filed
3 shall by order fix a place and time, not less than ~~sixty~~ SIXTY-THREE days
4 nor more than ~~ninety~~ NINETY-ONE days after the petition is filed, for
5 hearing thereon, and ~~thereupon~~ the clerk of ~~said~~ THE court shall cause
6 notice by publication (Schedule Form I) to be made of the pendency of
7 the petition and of the time and place of the hearing thereon. The clerk of
8 ~~said~~ THE court shall also forthwith cause a copy of said notice to be
9 ~~mailed~~ SENT by ~~registered~~ UNITED STATES FIRST-CLASS mail OR BY
10 ELECTRONIC SERVICE USING THE E-FILING SYSTEM OF THE JUDICIAL
11 DEPARTMENT to the board of county commissioners of each of the ~~several~~
12 counties having territory within the proposed district.

13 **SECTION 3.** In Colorado Revised Statutes, 37-46-113, **amend**
14 (1) as follows:

15 **37-46-113. Notice of hearing on petition.** (1) Immediately after
16 the filing of a petition created pursuant to section 37-46-112, the court,
17 by order, shall fix a place and time, not less than ~~sixty~~ SIXTY-THREE days
18 nor more than ~~ninety~~ NINETY-ONE days after the petition is filed, for a
19 hearing on the petition, and the clerk of the court shall provide notice by
20 publication, which may be substantially the same as provided in section
21 37-8-101, of the petition and of the time and place of the hearing on the
22 petition. The clerk of the court shall also ~~mail~~ SEND the notice by United
23 States ~~registered~~ FIRST-CLASS mail OR BY ELECTRONIC SERVICE USING THE
24 E-FILING SYSTEM OF THE JUDICIAL DEPARTMENT to the board of county
25 commissioners of each of the counties having territory within the
26 proposed subdistrict and, if the petition is filed by landowners, and not by
27 the board of directors, to the board of directors of the district.

1 **SECTION 4.** In Colorado Revised Statutes, 37-48-124, **amend**
2 (1) as follows:

3 **37-48-124. Time and place of hearing on petition.**

4 (1) Immediately after the filing of such petition, the court wherein ~~such~~
5 THE petition is filed, by order, shall fix a place and time, not less than
6 ~~sixty~~ SIXTY-THREE days nor more than ~~ninety~~ NINETY-ONE days after the
7 petition is filed, for hearing thereon, and ~~thereupon~~ the clerk of said court
8 shall cause notice by publication, which may be substantially the same as
9 provided in section 37-8-101, to be made of the pendency of the petition
10 and of the time and place of the hearing thereon. The clerk of ~~said~~ THE
11 court shall also forthwith cause a copy of said notice to be ~~mailed~~ SENT
12 by United States ~~registered~~ FIRST-CLASS mail OR BY ELECTRONIC SERVICE
13 USING THE E-FILING SYSTEM OF THE JUDICIAL DEPARTMENT to the board
14 of county commissioners of each of the ~~several~~ counties having territory
15 within the proposed subdistrict and to the board of directors of ~~said~~
16 district ~~in the event that said~~ IF THE petition is filed by the landowners.

17 **SECTION 5.** In Colorado Revised Statutes, 14-10-107, **amend**
18 (4)(a) as follows:

19 **14-10-107. Commencement - pleadings - abolition of existing**
20 **defenses - automatic, temporary injunction - enforcement.**

21 (4) (a) Upon the commencement of a proceeding by one of the parties,
22 or by a legal guardian or conservator of one of the parties, the other party
23 shall be personally served in the manner provided by the Colorado rules
24 of civil procedure, and he or she may file a response in accordance with
25 such rules; except that, upon motion verified by the oath of the party
26 commencing the proceeding or of someone in his or her behalf for an
27 order of publication stating the facts authorizing such service, and

1 showing the efforts, if any, that have been made to obtain personal service
2 within this state, and giving the address or last-known address of each
3 person to be served or stating that his or her address and last-known
4 address are unknown, the court shall hear the motion ex parte and, if
5 satisfied that due diligence has been used to obtain personal service
6 within this state or that efforts to obtain the same would have been to no
7 avail, shall order one publication of a consolidated notice in a newspaper
8 published or having general circulation in the county in which the
9 proceeding is filed, notwithstanding the provisions of article 70 of title
10 24. ~~C.R.S.~~ A consolidated notice shall be published at least once during
11 a calendar month and shall list the proceedings filed subsequent to those
12 named in the previously published consolidated notice, stating as to each
13 proceeding the names of the parties, the action number, the nature of the
14 action, that a copy of the petition and summons may be obtained from the
15 clerk of the court during regular business hours, and that default judgment
16 may be entered against that party upon whom service is made by such
17 notice if he or she fails to appear or file a response within thirty-five days
18 after the date of publication. Costs of publication of a consolidated notice
19 may be assessed pro rata to each of the proceedings named in the notice;
20 except that, if a party is indigent or otherwise unable to pay such
21 publication costs, the costs shall be paid by the court from funds
22 appropriated for the purpose. Service shall be complete upon such
23 publication, and a response or appearance by the party served by
24 publication under this subsection (4) shall be made within thirty-five days
25 thereafter, or default judgment may be entered. No later than the day of
26 publication, the clerk of the court shall also post for thirty-five
27 consecutive days a copy of the process on a bulletin board in his or her

1 office ~~and may post it~~ OR on the website of the district court in which the
2 case was filed and shall mail a copy of the process to the other party at his
3 or her last-known address, and shall place in the file of the proceeding his
4 or her certificate of posting and mailing. Proof of publication of the
5 consolidated notice shall be by placing in the file a copy of the affidavit
6 of publication, certified by the clerk of the court to be a true and correct
7 copy of the original affidavit on file in the clerk's office.

8 **SECTION 6. Act subject to petition - effective date -**
9 **applicability.** (1) This act takes effect September 1, 2017; except that,
10 if a referendum petition is filed pursuant to section 1 (3) of article V of
11 the state constitution against this act or an item, section, or part of this act
12 within the ninety-day period after final adjournment of the general
13 assembly, then the act, item, section, or part will not take effect unless
14 approved by the people at the general election to be held in November
15 2018 and, in such case, will take effect on the date of the official
16 declaration of the vote thereon by the governor.

17 (2) This act applies to petitions filed on or after the applicable
18 effective date of this act.