

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0368.01 Jerry Barry x4341

HOUSE BILL 17-1159

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HOUSE SPONSORSHIP

Becker J.,

SENATE SPONSORSHIP

Cooke,

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House Committees

Judiciary  
Appropriations

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING ACTIONS RELATED TO FORCIBLE ENTRY AND DETAINER.

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>.)*

The bill adds to the current descriptions of forcible detainer the act of a person preventing an owner from access to or possession of property by locking or changing the lock on the property.

The bill creates a procedure for the plaintiff to seek a temporary, mandatory injunction giving the plaintiff possession of the property if a complaint for forcible entry or detainer is filed. The procedure requires the plaintiff to store any personal property found on the property but allows the plaintiff to recover the costs of the storage.

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.*

The bill establishes as new crimes related to forcible entry and detainer the crimes of unlawful occupancy and unlawful reentry.

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

2 **SECTION 1.** In Colorado Revised Statutes, 13-40-101, **add** (4)  
3 as follows:

4 **13-40-101. Forcible entry and detainer defined.** (4) IF ANY  
5 PERSON ENTERS UPON LANDS, TENEMENTS, MINING CLAIMS, OR OTHER  
6 POSSESSIONS AND PREVENTS THE OWNER OR AN OCCUPANT WHO IS  
7 AUTHORIZED BY THE OWNER TO BE IN POSSESSION OF THE REAL PROPERTY  
8 FROM ACCESS OR OCCUPANCY OF THE PROPERTY BY LOCKING OR  
9 CHANGING A LOCK ON THE PROPERTY, THE PERSON IS GUILTY OF A  
10 FORCIBLE DETAINER WITHIN THE MEANING OF THIS ARTICLE 40.

11 **SECTION 2.** In Colorado Revised Statutes, **add** 13-40-110.5 as  
12 follows:

13 **13-40-110.5. Remedies for forcible entry or detainer -**  
14 **injunctions - procedure - damages.** (1) (a) IF A FORCIBLE ENTRY OR  
15 DETAINER ACTION IS COMMENCED, THE PLAINTIFF MAY INCLUDE WITH THE  
16 COMPLAINT AN EX PARTE MOTION FOR A TEMPORARY, MANDATORY  
17 INJUNCTION ORDERING THAT THE PLAINTIFF BE RESTORED TO IMMEDIATE  
18 POSSESSION OF THE PROPERTY. IF A MOTION FOR THE INJUNCTION IS FILED,  
19 PRIOR TO ISSUING A SUMMONS, THE COURT SHALL REVIEW THE COMPLAINT,  
20 MOTION, AND ANY ACCOMPANYING AFFIDAVITS OR SWORN TESTIMONY.  
21 THE COURT SHALL GRANT THE MOTION FOR THE INJUNCTION IF IT CLEARLY  
22 APPEARS FROM SPECIFIC FACTS SHOWN BY AN AFFIDAVIT, BY THE VERIFIED  
23 COMPLAINT, OR BY TESTIMONY THAT:

- 24 (I) THE PLAINTIFF IS ENTITLED TO POSSESSION OF THE PROPERTY;  
25 (II) ONE OR MORE DEFENDANTS HAVE PREVENTED THE PLAINTIFF

1 FROM POSSESSING THE PROPERTY IN A MANNER DESCRIBED IN SECTION  
2 13-40-101; AND

3 (III) THE PLAINTIFF HAS GIVEN SECURITY, IN AN AMOUNT DEEMED  
4 PROPER BY THE COURT, FOR THE PAYMENT OF ANY COSTS OR DAMAGES  
5 INCURRED OR SUFFERED BY ANY PARTY WHO IS FOUND TO HAVE BEEN  
6 WRONGFULLY ENJOINED OR RESTRAINED.

7 (b) IF A TEMPORARY, MANDATORY INJUNCTION IS ENTERED UNDER  
8 THIS SECTION:

9 (I) UNLESS DISSOLVED PURSUANT TO SUBSECTION (1)(b)(II) OF  
10 THIS SECTION OR FOLLOWING A HEARING ON THE PRELIMINARY  
11 INJUNCTION, THE TEMPORARY INJUNCTION EXPIRES AFTER THE TRIAL OF  
12 THE ACTION.

13 (II) THE ADVERSE PARTY MAY APPEAR AND MOVE FOR THE  
14 DISSOLUTION OR MODIFICATION OF THE INJUNCTION ON TWO DAYS' NOTICE  
15 TO THE PARTY WHO OBTAINED THE TEMPORARY, MANDATORY INJUNCTION  
16 OR ON SUCH SHORTER NOTICE AS THE COURT ORDERS, AND THE COURT  
17 SHALL HEAR AND DETERMINE THE MOTION AS EXPEDITIOUSLY AS  
18 POSSIBLE; AND

19 (III) THE COURT SHALL SET A PRELIMINARY INJUNCTION HEARING  
20 AT THE SAME TIME AS THE RETURN OF THE SUMMONS PURSUANT TO  
21 SECTION 13-40-111.

22 (2) (a) IF A TEMPORARY, MANDATORY INJUNCTION IS ENTERED  
23 UNDER THIS SECTION, THE COUNTY SHERIFF'S OFFICE IN WHICH THE  
24 PROPERTY IS LOCATED SHALL SERVE THE SUMMONS, COMPLAINT, AND  
25 MOTION AND ORDER FOR TEMPORARY INJUNCTION, IN THE MANNER  
26 DESCRIBED IN SECTION 13-40-112. A SHERIFF, UNDERSHERIFF, OR DEPUTY  
27 SHERIFF, AS DESCRIBED IN SECTION 16-2.5-103 (1) OR (2), AT RATES

1 CHARGED BY THE EMPLOYING SHERIFF'S OFFICE IN ACCORDANCE WITH  
2 SECTION 30-1-104 (1)(gg), SHALL ENFORCE THE TEMPORARY, MANDATORY  
3 INJUNCTION ONLY IN THE DAYTIME, BETWEEN SUNRISE AND SUNSET.

4 (b) THE OFFICER THAT ENFORCES A TEMPORARY, MANDATORY  
5 INJUNCTION UNDER SUBSECTION (1) OF THIS SECTION AND THE LAW  
6 ENFORCEMENT AGENCY THAT EMPLOYS THE OFFICER ARE IMMUNE FROM  
7 CIVIL LIABILITY FOR ANY DAMAGE TO A PERSON'S PERSONAL PROPERTY  
8 THAT WAS REMOVED FROM THE PREMISES DURING THE ENFORCEMENT OF  
9 THE ORDER. A PLAINTIFF OR REPRESENTATIVE OF THE PLAINTIFF WHO  
10 COMPLIES WITH THE LAWFUL DIRECTIONS OF THE OFFICER EXECUTING THE  
11 ORDER IS IMMUNE FROM CIVIL AND CRIMINAL LIABILITY FOR ANY ACT OR  
12 OMISSION RELATED TO A PERSON'S PERSONAL PROPERTY THAT WAS  
13 REMOVED FROM THE PREMISES DURING OR AFTER THE EXECUTION OF THE  
14 ORDER.

15 (3) THE PLAINTIFF SHALL STORE OR MAINTAIN A PERSON'S  
16 PERSONAL PROPERTY THAT IS REMOVED FROM THE PREMISES DURING OR  
17 AFTER THE EXECUTION OF A TEMPORARY, MANDATORY INJUNCTION  
18 ORDER. THE PLAINTIFF HAS NO DUTY TO INVENTORY THE PERSONAL  
19 PROPERTY OR TO DETERMINE OWNERSHIP OF OR THE CONDITION OF THE  
20 PERSONAL PROPERTY. THE STORAGE OF ANY PERSONAL PROPERTY UNDER  
21 THIS SUBSECTION (3) DOES NOT CREATE EITHER AN IMPLIED OR EXPRESS  
22 BAILMENT OF THE PERSONAL PROPERTY.

23 (4) IF THE COURT ISSUES A WRIT OF RESTITUTION UNDER THE  
24 COMPLAINT FILED PURSUANT TO THIS ARTICLE 40, THE PLAINTIFF MAY  
25 CHARGE A PERSON WHOSE PERSONAL PROPERTY WAS STORED THE  
26 REASONABLE COSTS OF STORING THE PROPERTY. THE PLAINTIFF MAY  
27 ALLOW THE PERSON TO RECOVER THE PERSONAL PROPERTY AFTER PAYING

1 THE REASONABLE STORAGE CHARGES INCURRED BY THE PLAINTIFF. A  
2 PLAINTIFF SHALL NOT DISPOSE OF ANY PERSONAL PROPERTY STORED  
3 PURSUANT TO SUBSECTION (3) OF THIS SECTION UNTIL THIRTY DAYS  
4 FOLLOWING THE ENTRY OF JUDGMENT ON THE COMPLAINT FILED  
5 PURSUANT TO THIS ARTICLE 40.

6 (5) IF AT TRIAL THE COURT FINDS THAT THE PLAINTIFF WAS NOT  
7 ENTITLED TO POSSESSION OF THE PROPERTY, A PERSON DAMAGED BY THE  
8 ACTIONS OF THE PLAINTIFF MAY RECOVER OUT-OF-POCKET ECONOMIC  
9 DAMAGES AGAINST THE PLAINTIFF AND ANY SECURITY POSTS BY THE  
10 PLAINTIFF PURSUANT TO SUBSECTION (1)(a)(III) OF THIS SECTION.

11 **SECTION 3.** In Colorado Revised Statutes, **add** 18-4-504.7 and  
12 18-4-504.8 as follows:

13 **18-4-504.7. Unlawful occupancy.** (1) A PERSON COMMITS  
14 UNLAWFUL OCCUPANCY IF THE PERSON FORCIBLY ENTERS AN  
15 UNINHABITED OR VACANT DWELLING KNOWING THAT THE ENTRY IS  
16 WITHOUT PERMISSION OF THE OWNER OR AUTHORIZED REPRESENTATIVE  
17 OF THE OWNER, WITH THE INTENT TO TAKE UP RESIDENCE IN THE  
18 DWELLING OR PROVIDE THE DWELLING AS A RESIDENCE FOR ANOTHER.

19 (2) A PERSON COMMITS UNLAWFUL OCCUPANCY IF THE PERSON  
20 TAKES UP RESIDENCY IN AN UNINHABITED OR VACANT DWELLING  
21 KNOWING THAT THE ENTRY IS WITHOUT PERMISSION OF THE OWNER OR  
22 AUTHORIZED REPRESENTATIVE OF THE OWNER.

23 (3) UNLAWFUL OCCUPANCY IS A CLASS 1 MISDEMEANOR; EXCEPT  
24 THAT, FOR A SECOND OR SUBSEQUENT CONVICTION OF THE OFFENSE, THE  
25 MAXIMUM FINE IS INCREASED TO TWENTY-FIVE THOUSAND DOLLARS.

26 **18-4-504.8. Unlawful reentry.** (1) A PERSON COMMITS  
27 UNLAWFUL REENTRY IF THE PERSON KNEW THAT THE OWNER OF THE

1 PROPERTY RECOVERED POSSESSION OF THE PROPERTY IN AN ACTION  
2 UNDER ARTICLE 40 OF TITLE 13 AND REENTERED THE PROPERTY WITHOUT  
3 THE AUTHORITY OF THE COURT OR THE PERMISSION OF THE OWNER.

4 (2) UNLAWFUL REENTRY IS A CLASS 1 MISDEMEANOR AND THE  
5 COURT SHALL IMPOSE A PENALTY PURSUANT TO SECTION 18-1.3-501;  
6 EXCEPT THAT THE MAXIMUM FINE IS INCREASED TO TWENTY-FIVE  
7 THOUSAND DOLLARS.

8 **SECTION 4. 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 complaints filed and offenses committed on  
18 or after the applicable effective date of this act.