

CHAPTER 66

COURTS

HOUSE BILL 17-1142

BY REPRESENTATIVE(S) Jackson, Exum, Herod, Hooton, Lontine, Melton, Pettersen, Rosenthal, Valdez;
also SENATOR(S) Gardner, Crowder, Kagan, Martinez Humenik, Moreno, Priola, Tate.

AN ACT**CONCERNING NOTICES OF CERTAIN COURT PROCEEDINGS.**

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

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

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

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

37-2-104. Notice of hearing on petition. (1) Immediately after the filing of such petition, the court wherein ~~such~~ THE petition is filed shall by order fix a place and time, not less than ~~sixty~~ SIXTY-THREE days nor more than ~~ninety~~ NINETY-ONE days after the petition is filed, for hearing thereon, and ~~thereupon~~ the clerk of ~~said~~ THE court shall cause notice by publication (Schedule Form I) to be made of the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

pendency of the petition and of the time and place of the hearing thereon. The clerk of ~~said~~ THE court shall also forthwith cause a copy of said notice to be ~~mailed~~ SENT by ~~registered~~ UNITED STATES FIRST-CLASS mail OR BY ELECTRONIC SERVICE USING THE E-FILING SYSTEM OF THE JUDICIAL DEPARTMENT to the board of county commissioners of each of the ~~several~~ counties having territory within the proposed district.

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

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

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

37-48-124. Time and place of hearing on petition. (1) Immediately after the filing of such petition, the court wherein ~~such~~ THE petition is filed, by order, shall fix a place and time, not less than ~~sixty~~ SIXTY-THREE days nor more than ~~ninety~~ NINETY-ONE days after the petition is filed, for hearing thereon, and ~~thereupon~~ the clerk of said court shall cause notice by publication, which may be substantially the same as provided in section 37-8-101, to be made of the pendency of the petition and of the time and place of the hearing thereon. The clerk of ~~said~~ THE court shall also forthwith cause a copy of said notice to be ~~mailed~~ SENT by United States ~~registered~~ FIRST-CLASS mail OR BY ELECTRONIC SERVICE USING THE E-FILING SYSTEM OF THE JUDICIAL DEPARTMENT to the board of county commissioners of each of the ~~several~~ counties having territory within the proposed subdistrict and to the board of directors of ~~said~~ THE district ~~in the event that said~~ IF THE petition is filed by the landowners.

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

14-10-107. Commencement - pleadings - abolition of existing defenses - automatic, temporary injunction - enforcement. (4) (a) Upon the commencement of a proceeding by one of the parties, or by a legal guardian or conservator of one of the parties, the other party shall be personally served in the manner provided by the Colorado rules of civil procedure, and he or she may file a response in accordance with such rules; except that, upon motion verified by the oath of the party commencing the proceeding or of someone in his or her behalf for an order of publication stating the facts authorizing such service, and showing the efforts, if any, that have been made to obtain personal service within this state, and giving the address or last-known address of each person to be served or stating that his or her address and last-known address are unknown, the court shall hear the

motion ex parte and, if satisfied that due diligence has been used to obtain personal service within this state or that efforts to obtain the same would have been to no avail, shall order one publication of a consolidated notice in a newspaper published or having general circulation in the county in which the proceeding is filed, notwithstanding the provisions of article 70 of title 24. ~~C.R.S.~~ A consolidated notice shall be published at least once during a calendar month and shall list the proceedings filed subsequent to those named in the previously published consolidated notice, stating as to each proceeding the names of the parties, the action number, the nature of the action, that a copy of the petition and summons may be obtained from the clerk of the court during regular business hours, and that default judgment may be entered against that party upon whom service is made by such notice if he or she fails to appear or file a response within thirty-five days after the date of publication. Costs of publication of a consolidated notice may be assessed pro rata to each of the proceedings named in the notice; except that, if a party is indigent or otherwise unable to pay such publication costs, the costs shall be paid by the court from funds appropriated for the purpose. Service shall be complete upon such publication, and a response or appearance by the party served by publication under this subsection (4) shall be made within thirty-five days thereafter, or default judgment may be entered. No later than the day of publication, the clerk of the court shall also post for thirty-five consecutive days a copy of the process on a bulletin board in his or her office ~~and may post it~~ OR on the website of the district court in which the case was filed and shall mail a copy of the process to the other party at his or her last-known address, and shall place in the file of the proceeding his or her certificate of posting and mailing. Proof of publication of the consolidated notice shall be by placing in the file a copy of the affidavit of publication, certified by the clerk of the court to be a true and correct copy of the original affidavit on file in the clerk's office.

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

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

Approved: March 20, 2017