

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0162.01 Conrad Imel x2313

HOUSE BILL 24-1225

HOUSE SPONSORSHIP

Duran and Lynch,

SENATE SPONSORSHIP

Fields and Gardner,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROCEDURES IN MURDER IN THE FIRST DEGREE CASES,**
102 **AND, IN CONNECTION THEREWITH, AN EXCEPTION TO THE RIGHT**
103 **TO BAIL FOR CASES OF MURDER IN THE FIRST DEGREE WHEN**
104 **PROOF IS EVIDENT OR PRESUMPTION IS GREAT.**

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, all persons have the right to bail pending disposition of charges, with certain exceptions, including an exception for persons charged with capital offenses. The bill adds an exception for

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.

murder in the first degree when proof is evident or presumption is great.

Under current law, in capital cases, each side is entitled to 10 peremptory juror challenges, and if there is more than one defendant, each side is entitled to an additional 3 peremptory challenges for every defendant after the first. The bill applies that existing law to cases in which a defendant is charged with murder in the first degree.

The bill is contingent on the adoption at the 2024 general election of a state constitutional amendment concerning bail exceptions.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-4-101, **amend**
3 (1)(c), (3), and (4); and **add** (1)(d) as follows:

4 **16-4-101. Bailable offenses - definitions.** (1) All persons shall
5 be bailable by sufficient sureties except:

6 (c) When a person has been convicted of a crime of violence or a
7 crime of possession of a weapon by a previous offender, as described in
8 section 18-12-108 (2)(b), (2)(c), (4)(b), (4)(c), or (5), as those provisions
9 existed prior to their repeal on March 1, 2022, at the trial court level and
10 ~~such~~ THE person is appealing ~~such~~ THE conviction or awaiting sentencing
11 for ~~such~~ THE conviction and the court finds that the public would be
12 placed in significant peril if the convicted person were released on bail;
13 OR

14 (d) FOR THE OFFENSE OF MURDER IN THE FIRST DEGREE, AS
15 DESCRIBED IN SECTION 18-3-102, COMMITTED ON OR AFTER THE EFFECTIVE
16 DATE OF THIS SUBSECTION (1)(d), WHEN PROOF IS EVIDENT OR
17 PRESUMPTION IS GREAT.

18 (3) In any capital case OR CASE IN WHICH THE DEFENDANT IS
19 CHARGED WITH MURDER IN THE FIRST DEGREE, the defendant may make
20 a written motion for admission to bail upon the ground that the proof is
21 not evident or that presumption is not great, and the court shall promptly

1 conduct a hearing upon ~~such~~ THE motion. At ~~such~~ THE hearing, the burden
2 ~~shall be upon~~ IS ON the people to establish that the proof is evident or that
3 the presumption is great. The court may combine in a single hearing the
4 questions as to whether the proof is evident or the presumption great with
5 the determination of the existence of probable cause to believe that the
6 defendant committed the crime charged.

7 (4) Except in the case of a capital offense OR CASE IN WHICH THE
8 DEFENDANT IS CHARGED WITH MURDER IN THE FIRST DEGREE, if a person
9 is denied bail ~~under~~ PURSUANT TO this section, the trial of the person ~~shall~~
10 MUST be commenced not more than ninety-one days after the date on
11 which bail is denied. If the trial is not commenced within ninety-one days
12 and the delay is not attributable to the defense, the court shall
13 immediately schedule a bail hearing and shall set the amount of the bail
14 for the person.

15 **SECTION 2.** In Colorado Revised Statutes, 16-10-104, **amend**
16 (1) as follows:

17 **16-10-104. Peremptory challenges.** (1) (a) In capital cases AND
18 IN CASES IN WHICH THE DEFENDANT IS CHARGED WITH MURDER IN THE
19 FIRST DEGREE, the state and the defendant, when there is one defendant,
20 ~~shall~~ ARE each ~~be~~ entitled to ten peremptory challenges. In all other cases
21 where there is one defendant and the punishment may be by imprisonment
22 in the correctional facilities operated by the department of corrections, the
23 state and the defendant ~~shall~~ ARE each ~~be~~ entitled to five peremptory
24 challenges, and in all other cases to three peremptory challenges.

25 (b) (I) If there is more than one defendant IN A CASE:

26 (A) IN CAPITAL CASES AND IN CASES IN WHICH A DEFENDANT IS
27 CHARGED WITH MURDER IN THE FIRST DEGREE, each side ~~shall be~~ IS

1 entitled to an additional three peremptory challenges for every defendant
2 after the first, ~~in capital cases~~, but not exceeding twenty peremptory
3 challenges to each side;

4 (B) In all other cases where the punishment may be by
5 imprisonment in the correctional facilities operated by the department of
6 corrections, EACH SIDE IS ENTITLED to two additional peremptory
7 challenges for every defendant after the first, not exceeding fifteen
8 peremptory challenges to each side; and

9 (C) In all other cases, EACH SIDE IS ENTITLED to one additional
10 peremptory challenge for every defendant after the first, not exceeding ten
11 peremptory challenges to each side.

12 (II) In any case where there are multiple defendants, every
13 peremptory challenge shall be made and considered as the joint
14 peremptory challenge of all defendants.

15 (c) In case of the consolidation of any indictments, informations,
16 complaints, or summonses and complaints for trial, ~~such~~ THE consolidated
17 cases shall be considered, for all purposes concerning peremptory
18 challenges, as though the defendants had been joined in the same
19 indictment, information, complaint, or summons and complaint.

20 (d) When trial is held on a plea of not guilty by reason of insanity,
21 the number of peremptory challenges ~~shall be~~ IS the same as if trial were
22 on the issue of substantive guilt.

23 **SECTION 3. Effective date.** This act takes effect only if House
24 Concurrent Resolution 24-1002 is approved by the people at the next
25 general election, in which case this act takes effect on the date of the
26 official declaration of the vote thereon by the governor.

27 **SECTION 4. Safety clause.** The general assembly finds,

1 determines, and declares that this act is necessary for the immediate
2 preservation of the public peace, health, or safety or for appropriations for
3 the support and maintenance of the departments of the state and state
4 institutions.