

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB21-1309 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 18-1-405, **amend**
4 (6) introductory portion and (6)(i); and **add** (6)(j) and (8) as follows:

5 **18-1-405. Speedy trial - definition - repeal.** (6) In computing
6 the time within which a defendant ~~shall be~~ IS brought to trial as provided
7 in subsection (1) of this section, the following periods of time ~~shall be~~
8 ARE excluded:

9 (i) The period of delay between the filing of a motion pursuant to
10 section 18-1-202 (11) and any decision by the court regarding such
11 motion, and if such decision by the court transfers the case to another
12 county, the period of delay until the first appearance of all the parties in
13 a court of appropriate jurisdiction in the county to which the case has
14 been transferred, and in such event ~~the provisions of subsection (7) of this~~
15 section ~~shall apply.~~ APPLIES; AND

16 (j) (I) UPON A MOTION BY THE COURT SUA SPONTE, A PERIOD OF
17 DELAY FOR ANY CONTINUANCE DUE TO THE BACKLOG OF JURY TRIALS
18 DIRECTLY RESULTING FROM A RESTRICTION, PROCEDURE, OR PROTOCOL
19 IMPLEMENTED DURING THE 2020 AND 2021 HEALTH EMERGENCY RELATED
20 TO THE COVID-19 PANDEMIC, NOT TO EXCEED SIX MONTHS. THE
21 BACKLOG OF JURY TRIALS RESULTING FROM THE COVID-19 PANDEMIC
22 DOES NOT INCLUDE ANY CONSISTENT AND ONGOING JURY TRIAL BACKLOG
23 THAT EXISTED PRIOR TO MARCH 1, 2020. THE COURT MAY GRANT ONLY
24 ONE CONTINUANCE PURSUANT TO THIS SUBSECTION (6)(j) IF IT MAKES THE
25 FOLLOWING SPECIFIC FINDINGS ON THE RECORD AFTER THE PROSECUTION
26 AND DEFENDANT HAVE HAD THE OPPORTUNITY TO BE HEARD:

27 (A) THE CASE IS A PART OF A COURT BACKLOG OF JURY TRIALS
28 DIRECTLY RESULTING FROM A RESTRICTION, PROCEDURE, OR PROTOCOL
29 IMPLEMENTED DURING THE 2020 AND 2021 HEALTH EMERGENCY RELATED
30 TO THE COVID-19 PANDEMIC, AND THE COURT HAS DETERMINED, BASED
31 ON AVAILABLE EVIDENCE, THAT A CONTINUANCE IS NOT ATTRIBUTABLE TO
32 ANY CONSISTENT AND ONGOING JURY TRIAL BACKLOG THAT EXISTED
33 PRIOR TO MARCH 1, 2020;

34 (B) NO COURT IN THE COUNTY WITH JURISDICTION TO TRY THE
35 CASE IS AVAILABLE, AND THE COURT HAS EXHAUSTED ALL REASONABLE
36 MEANS TO BRING THE CASE TO TRIAL;

37 (C) THE COURT HAS NOT PREVIOUSLY GRANTED A CONTINUANCE
38 PURSUANT TO THIS SUBSECTION (6)(j); AND

39 (D) GRANTING THE CONTINUANCE SERVES THE INTEREST OF
40 JUSTICE. WHEN DETERMINING WHETHER THE CONTINUANCE SERVES THE

1 INTEREST OF JUSTICE, THE COURT SHALL MAKE SPECIFIC FINDINGS
2 REGARDING THE IMPACT OF A CONTINUANCE ON THE PROSECUTION AND
3 THE DEFENDANT.

4 (II) IN CONSIDERING WHETHER TO GRANT A CONTINUANCE
5 PURSUANT TO THIS SUBSECTION (6)(j), THE COURT SHALL PRIORITIZE
6 CASES TO PROCEED TO TRIAL THAT:

7 (A) WERE DECLARED A MISTRIAL PURSUANT TO RULE 24 (c)(4) OF
8 THE COLORADO RULES OF CRIMINAL PROCEDURE;

9 (B) THE DEFENDANT IS IN CUSTODY IN THE CASE AND DOES NOT
10 WAIVE SPEEDY TRIAL; OR

11 (C) INCLUDE A CHARGE OF A CRIME LISTED IN SECTION 24-4.1-302
12 (1) TO ENSURE A VICTIM'S RIGHT TO A SWIFT AND FAIR RESOLUTION OF THE
13 CASE PURSUANT TO SECTION 24-4.1-302.5 (1)(o).

14 (III) PRIOR TO GRANTING A CONTINUANCE PURSUANT TO THIS
15 SUBSECTION (6)(j), THE COURT SHALL INFORM THE PROSECUTING
16 ATTORNEY, AND THE PROSECUTING ATTORNEY SHALL NOTIFY AND
17 RECEIVE INPUT FROM THE VICTIM, AS DEFINED IN SECTION 24-4.1-302 (5),
18 TO GIVE TO THE COURT BEFORE THE COURT MAKES A FINAL
19 DETERMINATION CONCERNING A CONTINUANCE. A VICTIM HAS THE RIGHT
20 TO BE HEARD AT A COURT PROCEEDING CONCERNING A CONTINUANCE
21 PURSUANT TO THIS SUBSECTION (6)(j).

22 (IV) IF A COURT GRANTS A CONTINUANCE PURSUANT TO THIS
23 SUBSECTION (6)(j) AND THE DEFENDANT IS IN CUSTODY FOR THE CASE
24 PENDING A JURY TRIAL BECAUSE THE DEFENDANT IS UNABLE TO SATISFY
25 THE MONETARY CONDITIONS OF BOND FOR RELEASE DESPITE BEING
26 ELIGIBLE FOR RELEASE, THE COURT SHALL RECONSIDER THE MONETARY
27 CONDITIONS OF BOND FOR RELEASE PURSUANT TO SECTION 16-4-107.5.

28 (V) A COURT SHALL NOT GRANT A CONTINUANCE PURSUANT TO
29 THIS SUBSECTION (6)(j) ON OR AFTER 5:01 P.M. ON APRIL 29, 2022.

30 (VI) THIS SUBSECTION (6)(j) IS REPEALED, EFFECTIVE JULY 1,
31 2023.

32 (8) (a) THE JUDICIAL DEPARTMENT SHALL COLLECT THE
33 FOLLOWING DATA FOR EACH CONTINUANCE GRANTED PURSUANT TO
34 SUBSECTION (6)(j) OF THIS SECTION:

35 (I) THE JUDICIAL DISTRICT WHERE THE CONTINUANCE WAS
36 GRANTED; AND

37 (II) THE HIGHEST CLASS OFFENSE CHARGED IN THE DEFENDANT'S
38 CASE THAT WAS CONTINUED.

39 (b) THE JUDICIAL DEPARTMENT SHALL REPORT ON THE DATA
40 COLLECTED PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION AT THE
41 JOINT HEARINGS CONDUCTED IN 2022 AND 2023 PURSUANT TO THE "STATE
42 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
43 (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

1 (c) ON OR BEFORE JANUARY 31, 2022, THE JUDICIAL DEPARTMENT
2 SHALL PUBLISH THE DATA COLLECTED PURSUANT TO SUBSECTION (8)(a) OF
3 THIS SECTION FOR THE PERIOD ON AND BEFORE DECEMBER 31, 2021. ON
4 OR BEFORE MAY 31, 2022, THE JUDICIAL DEPARTMENT SHALL PUBLISH THE
5 DATA COLLECTED PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION FOR
6 THE PERIOD ON AND BEFORE APRIL 29, 2022.

7 (d) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JULY 1, 2023.

8 **SECTION 2.** In Colorado Revised Statutes, **add** 16-4-107.5 as
9 follows:

10 **16-4-107.5. Hearing after excluding time for speedy trial for**
11 **public health emergency - repeal.** (1) IF A COURT GRANTS A
12 CONTINUANCE PURSUANT TO SECTION 18-1-405 (6)(j) FOR A CASE THAT
13 DOES NOT INCLUDE A CHARGE OF A CLASS 1, 2, OR 3 FELONY, AND THE
14 DEFENDANT IS IN CUSTODY FOR THE CASE PENDING A JURY TRIAL BECAUSE
15 THE DEFENDANT IS UNABLE TO SATISFY THE MONETARY CONDITIONS OF
16 BOND FOR RELEASE DESPITE BEING ELIGIBLE FOR RELEASE, THE COURT
17 SHALL ORDER THE IMMEDIATE RELEASE OF THE DEFENDANT FROM
18 CUSTODY UPON A PERSONAL RECOGNIZANCE BOND WITHOUT MONETARY
19 CONDITIONS.

20 (2) IF A COURT GRANTS A CONTINUANCE PURSUANT TO SECTION
21 18-1-405 (6)(j) FOR A CASE THAT INCLUDES A CHARGE OF A CLASS 1, 2, OR
22 3 FELONY, AND THE DEFENDANT IS IN CUSTODY BECAUSE THE DEFENDANT
23 IS UNABLE TO SATISFY THE MONETARY CONDITIONS OF BOND FOR RELEASE
24 DESPITE BEING ELIGIBLE FOR RELEASE, THE COURT SHALL CONDUCT A
25 HEARING AS SOON AS PRACTICABLE, BUT NOT LONGER THAN SEVEN DAYS
26 AFTER THE COURT GRANTED THE CONTINUANCE PURSUANT TO SECTION
27 18-1-405 (6)(j), FOR RECONSIDERATION OF THE DEFENDANT'S MONETARY
28 CONDITIONS OF BOND FOR RELEASE. THE COURT SHALL REVOKE THE
29 MONETARY CONDITIONS OF BOND FOR RELEASE ALLOWING THE
30 DEFENDANT TO BE RELEASED, UNLESS THE COURT CONCLUDES THAT THE
31 DEFENDANT THREATENS THE SAFETY OF ANY OTHER PERSON OR PERSONS
32 IN THE COMMUNITY, WHETHER KNOWN OR UNKNOWN, AND THAT
33 MONETARY CONDITIONS OF BOND FOR RELEASE ARE NECESSARY TO
34 REASONABLY PROTECT AGAINST SUCH RISK. THE COURT MAY MODIFY THE
35 MONETARY CONDITIONS OF BOND TO ALLOW THE DEFENDANT TO BE
36 RELEASED IF THE COURT CONCLUDES THAT THE DEFENDANT THREATENS
37 THE SAFETY OF ANY OTHER PERSON OR PERSONS IN THE COMMUNITY,
38 WHETHER KNOWN OR UNKNOWN, AND THAT MONETARY CONDITIONS OF
39 BOND FOR RELEASE ARE NECESSARY TO REASONABLY PROTECT AGAINST
40 SUCH RISK. FAILURE TO COMPLY WITH THIS SUBSECTION (2) REQUIRES THE
41 COURT TO ORDER THE IMMEDIATE RELEASE OF THE DEFENDANT FROM
42 CUSTODY UPON A PERSONAL RECOGNIZANCE BOND WITH APPROPRIATE
43 CONDITIONS OF RELEASE.

1 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2023.
2 **SECTION 3. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety."

** *** ** *** **