

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

INTRODUCED

LLS NO. 26-0348.01 Lindy Schaible x4215

HOUSE BILL 26-1106

HOUSE SPONSORSHIP

Lindsay and Velasco,

SENATE SPONSORSHIP

Weissman and Michaelson Jenet,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING EVICTION PROTECTIONS FOR TENANTS.**

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 limits the number of forcible entry and detainer (eviction) actions that a county court schedules on one business day.

The bill prohibits including a minor defendant as a named defendant in an eviction complaint when a parent or adult guardian is also listed as a defendant on the same complaint.

The bill prohibits a court from entering judgment without a trial or a hearing when a tenant's answer to an eviction complaint expresses an intent to cure nonpayment.

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.

The bill specifies that the following reasons excuse a tenant from filing a timely written answer to an eviction complaint: A hospitalization, a sickness or injury, a reasonable accommodation request for a disability, a lack of proper service, a transportation issue, a complication related to electronic filing that was reasonably outside of the tenant's control, and a court issue that was reasonably outside of the tenant's control.

When a tenant in an eviction action asserts that they were affected by one of the specified reasons, the bill requires a court to:

- Relieve a tenant from final judgment, vacate any judgment or writ of restitution that was issued, and provide the tenant with a reasonable amount of time to file an answer;
- Permit additional and amended pleadings; and
- Extend the trial date.

The bill repeals appeals bond in eviction cases.

The bill extends the time for executing a writ of restitution in an eviction action from 48 hours to 30 days, except in cases involving substantial violations.

The bill prohibits the execution of writs in eviction actions during inclement weather.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 13-40-109 as
3 follows:

4 **13-40-109. Jurisdiction of courts - limit daily number of**
5 **forcible entry and detainer cases - definition.**

6 (1) The district courts in their respective districts and county
7 courts in their respective counties have jurisdiction ~~of~~ OVER all cases of
8 forcible entry, forcible detainer, or unlawful detainer arising pursuant to
9 this article 40, and the person entitled to the possession of ~~any~~ A premises
10 may recover possession ~~thereof~~ OF THE PREMISES by action brought in ~~any~~
11 ~~of said courts~~ A DISTRICT OR A COUNTY COURT in the manner provided in
12 this article 40.

13 (2) ~~On and after January 1, 2019, In all actions~~ AN ACTION brought
14 before ~~county courts~~ A COUNTY COURT pursuant to section 13-40-104

1 (1)(f) to (1)(i), where the allegations of the complaint are put in issue by
2 a verified answer and in ~~actions~~ AN ACTION in which the verified answer
3 alleges a monthly rental value of the property in excess of twenty-five
4 thousand dollars, the county court, ~~upon the filing of said answer~~ AFTER
5 THE ANSWER IS FILED, shall suspend all proceedings ~~therein~~ BEFORE THE
6 COUNTY COURT and certify ~~said cause~~ THE ACTION and transmit the papers
7 ~~therein~~ FILED IN THE COUNTY COURT to the district court of the same
8 county. ~~Causes so~~ AN ACTION certified by ~~the~~ A county court ~~shall be~~
9 ~~proceeded within the courts to which they have been so certified in all~~
10 ~~respects as if originally begun in the court to which they have been~~
11 ~~certified~~ TO A DISTRICT COURT MUST PROCEED AS IF THE ACTION HAD
12 ORIGINALLY BEEN FILED IN THE DISTRICT COURT.

13 (3) ~~On and after January 1, 2019,~~ The jurisdiction of the county
14 court to enter judgment for rent, or damages, or both, and to render
15 judgment on a counterclaim in forcible entry and detainer ~~shall be~~ IS
16 limited to a total of twenty-five thousand dollars in favor of either party,
17 exclusive of costs and attorney fees.

18 (4) (a) ON AND AFTER JANUARY 1, 2027, A COUNTY COURT SHALL
19 NOT SET FOR RETURN MORE THAN THE NUMBER OF FORCIBLE ENTRY AND
20 DETAINER ACTIONS ON ONE BUSINESS DAY AS FOLLOWS:

21 (I) FOR COUNTIES THAT HAD FEWER THAN ONE THOUSAND
22 FORCIBLE ENTRY AND DETAINER ACTIONS FILED IN THE PRECEDING YEAR,
23 A DAILY CAP OF TWENTY-FIVE ACTIONS;

24 (II) FOR COUNTIES THAT HAD ONE THOUSAND OR MORE BUT FEWER
25 THAN FIVE THOUSAND FORCIBLE ENTRY AND DETAINER ACTIONS FILED IN
26 THE PRECEDING YEAR, A DAILY CAP OF FORTY-FIVE ACTIONS; AND

27 (III) FOR COUNTIES THAT HAD FIVE THOUSAND OR MORE FORCIBLE

1 ENTRY AND DETAINER ACTIONS FILED IN THE PRECEDING YEAR, A DAILY
2 CAP OF SIXTY-FIVE ACTIONS.

3 (b) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES, "SET FOR RETURN" MEANS AN ACTION IN WHICH THE TENANT IS
5 COMMANDED TO APPEAR BEFORE THE COURT PURSUANT TO THE SUMMONS
6 DESCRIBED IN SECTION 13-40-111.

7 **SECTION 2.** In Colorado Revised Statutes, 13-40-110, **add**
8 (1)(g) as follows:

9 **13-40-110. Action - how commenced - report - definition.**

10 (1) (g) (I) A PERSON SHALL NOT FILE A FORCIBLE ENTRY AND
11 DETAINER COMPLAINT PURSUANT TO THIS ARTICLE 40 THAT INCLUDES A
12 MINOR TENANT AS A NAMED DEFENDANT IF A PARENT OR LEGAL GUARDIAN
13 IS ALSO LISTED ON THE SAME COMPLAINT.

14 (II) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES, "MINOR" MEANS A PERSON WHO IS UNDER EIGHTEEN YEARS OLD
16 WHO HAS NOT BEEN LEGALLY EMANCIPATED.

17 (III) A COURT SHALL DISMISS WITHOUT PREJUDICE AN ACTION
18 FILED IN VIOLATION OF THIS SECTION AND ORDER THE PARTY THAT FILED
19 THE ACTION TO PAY TO THE MINOR'S PARENT OR LEGAL GUARDIAN ANY
20 COSTS ASSOCIATED WITH DEFENDING THE ACTION.

21 **SECTION 3.** In Colorado Revised Statutes, 13-40-113, **amend**
22 (1)(a) and (2); and **add** (1)(c) and (4)(a.7) as follows:

23 **13-40-113. Answer of defendant - additional and amended**
24 **pleadings.**

25 (1) (a) The defendant shall file with the court, at or before the day
26 specified for the defendant's appearance in the summons, an answer in
27 writing. The defendant's answer must set forth the grounds on which the

1 defendant bases the defendant's claim for possession, admitting or
2 denying all of the material allegations of the complaint, and presenting
3 every defense that then exists and upon which the defendant intends to
4 rely, either by including the ~~same~~ DEFENSE in the defendant's answer or
5 by simultaneously filing motions setting forth each defense. IF THE
6 DEFENDANT'S ANSWER EXPRESSES AN INTENTION TO EXERCISE THEIR
7 RIGHT TO CURE PURSUANT TO SECTION 13-40-115, THEN THE COURT SHALL
8 NOT ENTER JUDGMENT WITHOUT A TRIAL OR A HEARING.

9 (c) IF THE DEFENDANT ASSERTS THAT THEY DID NOT TIMELY FILE
10 AN ANSWER IN WRITING FOR ONE OR MORE OF THE FOLLOWING REASONS,
11 THE COURT SHALL RELIEVE THE DEFENDANT FROM FINAL JUDGMENT AND
12 VACATE ANY JUDGMENT OR WRIT OF RESTITUTION THAT MAY HAVE BEEN
13 ISSUED AND PROVIDE THE DEFENDANT WITH A REASONABLE AMOUNT OF
14 TIME, NO LESS THAN SEVEN DAYS, TO FILE AN ANSWER TO THE COMPLAINT:

15 (I) A HOSPITALIZATION;

16 (II) A SICKNESS OR AN INJURY DOCUMENTED BY A NOTE FROM A
17 MEDICAL PROFESSIONAL;

18 (III) A REASONABLE ACCOMMODATION REQUEST MADE TO THE
19 COURT FOR A DISABILITY;

20 (IV) A LACK OF PROPER SERVICE IN ACCORDANCE WITH SECTION
21 13-40-112;

22 (V) A TRANSPORTATION ISSUE THAT REASONABLY PREVENTED
23 TIMELY PARTICIPATION;

24 (VI) A COMPLICATION RELATED TO ELECTRONIC FILING THAT WAS
25 REASONABLY OUTSIDE THE CONTROL OF THE DEFENDANT; AND

26 (VII) A COURT ISSUE THAT WAS REASONABLY OUTSIDE THE
27 CONTROL OF THE DEFENDANT.

1 (2) The court for good cause may permit the filing of additional
2 and amended pleadings if ~~it~~ THE FILING will not result in a delay
3 prejudicial to the defendant. If the defendant asserts a defense described
4 in section 13-40-104 (4)(a), OR IF THE DEFENDANT ASSERTS A REASON
5 LISTED IN SUBSECTION (1)(c) OF THIS SECTION, the court shall permit the
6 filing of additional and amended pleadings.

7 (4) After an answer is provided to the court pursuant to this
8 section:

9 (a.7) IF A DEFENDANT IN AN ACTION FILED PURSUANT TO THIS
10 ARTICLE 40 REQUESTS AN EXTENSION OF A SCHEDULED TRIAL DATE DUE
11 TO A REASON LISTED IN SUBSECTION (1)(c) OF THIS SECTION, THE COURT
12 SHALL FIND GOOD CAUSE EXISTS TO EXTEND THE TRIAL DATE BEYOND TEN
13 DAYS AFTER THE ANSWER IS FILED AND SHALL MAKE ALL REASONABLE
14 EFFORTS TO SCHEDULE THE TRIAL DATE AT THE EARLIEST TIME
15 PRACTICABLE THAT WOULD ALSO ALLOW BOTH PARTIES TO PARTICIPATE.
16 A COURT MAY ALSO GRANT AN EXTENSION OF A SCHEDULED TRIAL DATE
17 FOR ANY OTHER REASON AT ITS DISCRETION PURSUANT TO SUBSECTION
18 (4)(a) OF THIS SECTION.

19 **SECTION 4.** In Colorado Revised Statutes, 13-40-115, **amend**
20 (4) introductory portion as follows:

21 **13-40-115. Judgment - writ of restitution - cure period.**

22 (4) A landlord who provides a tenant with proper notice of
23 nonpayment shall accept payment of the tenant's full payment of all
24 amounts lawfully ~~due~~ OWED according to the ~~notice~~ RENTAL AGREEMENT,
25 as well as any rent that remains LAWFULLY due under the rental agreement
26 or that remains due pursuant to a repayment plan established pursuant to
27 section 13-40-104 (4)(e), at any time until a judge issues a judgment for

1 possession pursuant to subsection (1) or (2) of this section. A tenant may
2 pay this amount to either the landlord or to the court. Once a court has
3 confirmation that the full amount has been timely paid, the court shall:

4 **SECTION 5.** In Colorado Revised Statutes, 13-40-117, **amend**
5 (3) as follows:

6 **13-40-117. Appeals.**

7 (3) If the appellee believes that the appellee may suffer serious
8 economic harm during the pendency of the appeal, the appellee may
9 petition the court taking the appeal to require the appellant to have an
10 additional undertaking to cover the anticipated harm. The court shall
11 order ~~such~~ AN ADDITIONAL undertaking only after a hearing and ~~upon a~~
12 finding that the appellee has shown a substantial likelihood of suffering
13 ~~such~~ economic harm during the pendency of the appeal and that the
14 appellee will not be adequately protected ~~under the appeals bond and the~~
15 ~~other requirements for appeal pursuant to sections 13-40-118, 13-40-120,~~
16 ~~and 13-40-123~~ PURSUANT TO SECTIONS 13-40-120 AND 13-40-123.

17 **SECTION 6.** In Colorado Revised Statutes, **repeal** 13-40-118 as
18 follows:

19 **13-40-118. Deposit of rent.**

20 ~~In all appeals from the judgment of a county court, in an action~~
21 ~~founded upon section 13-40-104 (1)(d), the defendant, at the time of the~~
22 ~~filing thereof, shall deposit with the court the amount of rent found due~~
23 ~~and specified in such judgment. Unless such deposit is made, the appeal~~
24 ~~is not perfected, and proceedings upon such judgment shall thereupon be~~
25 ~~had accordingly. If the appeal is perfected, the court shall transmit such~~
26 ~~deposit to the clerk of the appellate court, with the papers in such case,~~
27 ~~and the appellant thereafter, at the time when the rents become due as~~

1 specified in the judgment appealed from and as often as the same become
2 due, shall deposit the amount thereof with the clerk of such appellate
3 court. In case the appellant, at any time during the pendency of such
4 appeal and before final judgment therein, neglects or fails to make any
5 deposit of rent, falling due at the time specified in the judgment appealed
6 from, the court in which such appeal is pending, upon such fact being
7 made to appear and upon motion of the appellee, shall affirm the
8 judgment appealed from with costs; and proceedings thereupon shall be
9 had as in like cases determined upon the merits.

10 **SECTION 7.** In Colorado Revised Statutes, **amend** 13-40-120 as
11 follows:

12 **13-40-120. Appellate review.**

13 Appellate review of the judgment of the district courts of this state
14 in proceedings under this ~~article~~ ARTICLE 40 is allowed as provided by
15 law and the Colorado appellate rules. ~~In cases of appeal from judgments~~
16 ~~founded upon causes of action embraced in section 13-40-104 (1)(d), the~~
17 ~~deposit of rent money during pendency of appeal shall be made, or~~
18 ~~judgment of affirmance shall be entered, in the manner provided in~~
19 ~~section 13-40-118.~~

20 **SECTION 8.** In Colorado Revised Statutes, 13-40-122, **amend**
21 (1)(a) and (1)(b); and **add** (1)(d) and (1)(e) as follows:

22 **13-40-122. Writ of restitution after judgment - definitions.**

23 (1) (a) Except as provided in subsection (1)(a.5) of this section,
24 a court shall not issue a writ of restitution upon any judgment entered in
25 any action pursuant to this article 40 until forty-eight hours after ~~the time~~
26 ~~of the entry of the judgment. If the writ of restitution concerns a~~
27 ~~residential tenant who receives supplemental security income, social~~

1 security disability insurance under Title II of the federal "Social Security
2 Act", 42 U.S.C. sec. 401 et seq., as amended, or cash assistance through
3 the Colorado works program created in part 7 of article 2 of title 26; The
4 writ must specify that the writ is not executable for thirty days after entry
5 of judgment pursuant to subsection (1)(b) of this section; except in the
6 case

7 (F) in which a court has ordered a judgment for possession for a
8 substantial violation pursuant to section 13-40-107.5. or

9 (H) ~~Of a landlord with five or fewer single-family rental homes~~
10 ~~and no more than five total rental units including any single-family~~
11 ~~homes.~~

12 (b) A writ of restitution must be executed by the officer ~~having the~~
13 ~~same~~ only in the daytime and between sunrise and sunset, and the officer
14 shall not execute a writ of restitution concerning a residential tenancy
15 until at least ~~ten days after entry of the judgment; except that the officer~~
16 ~~shall not execute a writ of restitution concerning a residential tenancy~~
17 ~~until at least thirty days after entry of judgment; if the residential tenant~~
18 ~~receives supplemental security income, social security disability insurance~~
19 ~~under Title II of the federal "Social Security Act", 42 U.S.C. sec. 401 et~~
20 ~~seq., as amended, or cash assistance through the Colorado works program~~
21 ~~created in part 7 of article 2 of title 26, as specified in the writ; except in~~
22 the case

23 (F) in which a court has ordered a judgment for possession for a
24 substantial violation pursuant to section 13-40-107.5. or

25 (H) ~~Of a landlord with five or fewer single-family rental homes~~
26 ~~and no more than five total rental units including any single-family~~
27 ~~homes.~~

1 (d) AN OFFICER SHALL NOT EXECUTE A WRIT OF RESTITUTION
2 DURING INCLEMENT WEATHER.

3 (e) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES, "INCLEMENT WEATHER" MEANS THE FORECASTED DAILY HIGH
5 IS BELOW THIRTY-TWO DEGREES FAHRENHEIT OR ABOVE NINETY DEGREES
6 FAHRENHEIT OR SUBSTANTIAL RAIN OR SNOW IS ACCUMULATING OR
7 PROJECTED.

8 **SECTION 9. Safety clause.** The general assembly finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety or for appropriations for
11 the support and maintenance of the departments of the state and state
12 institutions.