

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0423.01 Jerry Barry x4341

SENATE BILL 18-015

SENATE SPONSORSHIP

Gardner and Hill,

HOUSE SPONSORSHIP

Williams D. and Liston,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE "PROTECTING HOMEOWNERS AND DEPLOYED
102 MILITARY PERSONNEL ACT".

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 directs a peace officer to remove a person from a residential premises and to order the person to remain off the premises if the owner or owner's authorized agent (declarant) swears to a declaration making specified statements concerning ownership of the premises and the lack of authority for the person or persons who are on the premises to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

be there. The peace officer must allow the person a reasonable opportunity to obtain evidence of his or her authority to be on the premises.

A declarant:

- ! Agrees to indemnify a peace officer and his or her agency for acts and omissions made in reliance upon the declaration; and
- ! Is liable for actual damages, attorney fees, and costs for any false statements made in the declaration.

If the declaration includes a statement that the property has been altered or damaged, or if the peace officer sees evidence of alteration or damage, the peace officer shall collect the personal information of the persons removed and provide it to the declarant. A person removed from the property pursuant to the bill who alters or damages the property is guilty of a class 1 misdemeanor.

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

2 **SECTION 1. Short title.** The short title of this act is the
3 "Protecting Homeowners and Deployed Military Personnel Act".

4 **SECTION 2.** In Colorado Revised Statutes, **add** 18-4-504.2 and
5 18-4-504.3 as follows:

6 **18-4-504.2. Removal of unauthorized persons - definition.**

7 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES, "RESIDENTIAL PREMISES" MEANS A DWELLING UNIT, THE
9 STRUCTURE OF WHICH THE UNIT IS A PART, AND THE PROPERTY
10 SURROUNDING THE STRUCTURE.

11 (2) THE OWNER OF A RESIDENTIAL PREMISES, OR HIS OR HER
12 AUTHORIZED AGENT, MAY INITIATE THE INVESTIGATION OF AND REQUEST
13 THE REMOVAL OF AN UNAUTHORIZED PERSON OR PERSONS FROM THE
14 RESIDENTIAL PREMISES BY PROVIDING TO LAW ENFORCEMENT A
15 DECLARATION CONTAINING ALL OF THE FOLLOWING REQUIRED ELEMENTS
16 AND IN SUBSTANTIALLY THE FOLLOWING FORM:

17 REQUEST TO REMOVE TRESPASSER(S) FORM

1 THE UNDERSIGNED OWNER, OR AUTHORIZED AGENT
2 OF THE OWNER, OF THE RESIDENTIAL PREMISES LOCATED AT
3 HEREBY REPRESENTS AND DECLARES UNDER THE
4 PENALTY OF PERJURY THAT (INITIAL EACH BOX):
5 1. [] THE DECLARANT IS THE OWNER OF THE PREMISES OR
6 THE AUTHORIZED AGENT OF THE OWNER OF THE PREMISES;
7 2. [] AN UNAUTHORIZED PERSON OR PERSONS HAVE
8 ENTERED AND ARE REMAINING UNLAWFULLY ON THE
9 PREMISES;
10 3. [] THE PERSON OR PERSONS WERE NOT AUTHORIZED TO
11 ENTER OR REMAIN;
12 4. [] THE PERSON OR PERSONS ARE NOT A TENANT OR
13 TENANTS AND HAVE NOT BEEN A TENANT OR TENANTS, OR
14 A HOMEOWNER OR HOMEOWNERS WHO HAVE BEEN ON
15 TITLE, WITHIN THE LAST THREE MONTHS ON THE PROPERTY;
16 5. [] THE DECLARANT HAS DEMANDED THAT THE
17 UNAUTHORIZED PERSON OR PERSONS VACATE THE PREMISES
18 BUT THEY HAVE NOT DONE SO;
19 6. [] THE PREMISES WERE NOT ABANDONED AT THE TIME
20 THE UNAUTHORIZED PERSON OR PERSONS ENTERED;
21 7. [] THE PREMISES WERE NOT OPEN TO MEMBERS OF THE
22 PUBLIC AT THE TIME THE UNAUTHORIZED PERSON OR
23 PERSONS ENTERED;
24 8. [] THE DECLARANT UNDERSTANDS THAT A PERSON OR
25 PERSONS REMOVED FROM THE PREMISES PURSUANT TO
26 SECTION 18-4-504.2, COLORADO REVISED STATUTES, MAY
27 BRING A CAUSE OF ACTION PURSUANT TO SECTION

1 13-21-129, COLORADO REVISED STATUTES, AGAINST THE
2 DECLARANT FOR ANY FALSE STATEMENTS MADE IN THIS
3 DECLARATION, AND, THAT AS A RESULT OF SUCH ACTION,
4 THE DECLARANT MAY BE HELD LIABLE FOR ACTUAL
5 DAMAGES, ATTORNEY FEES, AND COSTS;

6 9. [] THE DECLARANT AGREES TO INDEMNIFY AND HOLD
7 HARMLESS ANY PEACE OFFICER AND THE OFFICER'S LAW
8 ENFORCEMENT AGENCY FOR ACTIONS OR OMISSIONS MADE
9 IN GOOD FAITH PURSUANT TO THIS DECLARATION; AND

10 10. [] ADDITIONAL OPTIONAL EXPLANATORY COMMENTS
11 OR STATEMENT THAT THE PREMISES HAS BEEN ALTERED OR
12 DAMAGED:

13

14 (3) A DECLARANT WHO FALSELY SWEARS ON A DECLARATION
15 PROVIDED TO LAW ENFORCEMENT PURSUANT TO THIS SECTION MAY BE
16 PROSECUTED FOR PERJURY IN THE FIRST OR SECOND DEGREE, AS
17 DESCRIBED IN SECTION 18-8-502 OR 18-8-503, OR FALSE SWEARING, AS
18 DESCRIBED IN SECTION 18-8-504.

19 (4) (a) SUBJECT TO SUBSECTIONS (6) AND (7) OF THIS SECTION AND
20 WITHIN TWENTY-FOUR HOURS AFTER THE RECEIPT OF A DECLARATION
21 SIGNED UNDER PENALTY OF PERJURY, IN THE FORM PRESCRIBED IN
22 SUBSECTION (2) OF THIS SECTION, DECLARING THE TRUTH OF ALL OF THE
23 REQUIRED ELEMENTS SET FORTH IN SUBSECTION (2) OF THIS SECTION, A
24 PEACE OFFICER SHALL:

25 (I) REMOVE THE PERSON OR PERSONS FROM THE RESIDENTIAL
26 PREMISES, WITH OR WITHOUT ARRESTING THE PERSON OR PERSONS; AND

27 (II) ORDER THE PERSON OR PERSONS TO REMAIN OFF THE

1 RESIDENTIAL PREMISES OR BE SUBJECT TO ARREST FOR CRIMINAL
2 TRESPASS.

3 (b) IF THE DECLARATION INCLUDES A STATEMENT THAT THE
4 PROPERTY HAS BEEN ALTERED OR DAMAGED OR THE PEACE OFFICER SEES
5 EVIDENCE THAT THE PROPERTY HAS BEEN ALTERED OR DAMAGED, THE
6 PEACE OFFICER SHALL COLLECT PERSONAL INFORMATION FROM THE
7 PERSON OR PERSONS AND SHALL PROVIDE THAT INFORMATION TO THE
8 DECLARANT.

9 (5) ONLY A PEACE OFFICER HAVING PROBABLE CAUSE TO BELIEVE
10 THAT A PERSON IS GUILTY OF CRIMINAL TRESPASS PURSUANT TO SECTION
11 18-4-502, 18-4-503, OR 18-4-504 FOR UNLAWFULLY ENTERING OR
12 REMAINING IN OR ON ANOTHER'S PREMISES HAS THE AUTHORITY AND
13 DISCRETION TO MAKE AN ARREST OR EXCLUDE ANYONE UNDER PENALTY
14 OF CRIMINAL TRESPASS.

15 (6) WHILE A PEACE OFFICER MAY TAKE INTO ACCOUNT A
16 DECLARATION FROM THE PROPERTY OWNER SIGNED UNDER PENALTY OF
17 PERJURY CONTAINING ALL OF THE REQUIRED ELEMENTS AND IN THE FORM
18 PRESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE PEACE OFFICER MUST
19 PROVIDE THE OCCUPANT OR OCCUPANTS WITH A REASONABLE
20 OPPORTUNITY TO SECURE AND PRESENT ANY CREDIBLE EVIDENCE
21 PROVIDED BY THE PERSON OR PERSONS ON THE PREMISES, WHICH THE
22 PEACE OFFICER MUST CONSIDER, SHOWING THAT THE PERSON OR PERSONS
23 ARE TENANTS, LEGAL OCCUPANTS, OR THE GUESTS OR INVITEES OF THE
24 TENANTS OR LEGAL OCCUPANTS.

25 (7) NEITHER THE PEACE OFFICER NOR HIS OR HER LAW
26 ENFORCEMENT AGENCY SHALL BE HELD LIABLE FOR ACTIONS OR
27 OMISSIONS MADE IN GOOD FAITH PURSUANT TO THIS SECTION, AND THE

1 DECLARANT AGREES TO INDEMNIFY THE OFFICER AND AGENCY FOR SUCH
2 ACTIONS OR OMISSIONS.

3 (8) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT RIGHTS
4 PURSUANT TO ARTICLE 38 OF TITLE 38 OR TO ALLOW A PEACE OFFICER TO
5 REMOVE OR EXCLUDE AN OCCUPANT WHO IS ENTITLED TO OCCUPY A
6 DWELLING UNIT UNDER A RENTAL AGREEMENT OR WHO IS THE OCCUPANT'S
7 GUEST OR INVITEE.

8 **18-4-504.3. Unauthorized alteration or damage of a residential**
9 **property.** (1) A PERSON WHO IS REMOVED FROM A RESIDENTIAL
10 PROPERTY PURSUANT TO SECTION 18-4-504.2 AND WHO HAS ALTERED OR
11 DAMAGED THE RESIDENTIAL PROPERTY COMMITS UNAUTHORIZED
12 ALTERATION OR DAMAGE OF A RESIDENTIAL PROPERTY.

13 (2) UNAUTHORIZED ALTERATION OR DAMAGE OF A RESIDENTIAL
14 PROPERTY IS A CLASS 1 MISDEMEANOR.

15 **SECTION 3.** In Colorado Revised Statutes, **add** 13-21-129 as
16 follows:

17 **13-21-129. Civil liability for false statement to recover**
18 **possession of real property.** IN ADDITION TO ANY OTHER REMEDIES, A
19 PERSON REMOVED FROM A RESIDENTIAL PREMISES PURSUANT TO SECTION
20 18-4-504.2 ON THE BASIS OF FALSE STATEMENTS MADE BY A DECLARANT
21 HAS A PRIVATE CAUSE OF ACTION AGAINST THE DECLARANT. IN THE
22 ACTION, THE PLAINTIFF IS ENTITLED TO ACTUAL DAMAGES, ATTORNEY
23 FEES, AND COSTS.

24 **SECTION 4. Effective date - applicability.** This act takes effect
25 July 1, 2018, and applies to requests for removal and offenses committed
26 on or after said date.

27 **SECTION 5. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.