

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

INTRODUCED

LLS NO. 23-0362.01 Conrad Imel x2313

SENATE BILL 23-024

SENATE SPONSORSHIP

Kirkmeyer,

HOUSE SPONSORSHIP

Pugliese,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING PERMITTING A CHALLENGE TO THE CONSTITUTIONALITY**
102 **OF A COURT ORDER IN A CONTEMPT PROCEEDING.**

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 permits a person who is subject to a court order to challenge the constitutionality of the court order in a contempt proceeding alleging the person violated the court order on the grounds that the court order violates the person's rights under the first amendment to the United States constitution.

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.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Colorado courts have adopted the collateral bar rule, which
5 prohibits a person from challenging the legality of a court order other than
6 by directly appealing the order;

7 (b) Although there are a number of exceptions to the collateral bar
8 rule, none permit a person to challenge the constitutionality of a court
9 order in a contempt proceeding that alleges that the person violated the
10 court order;

11 (c) Other jurisdictions, including California, recognize the right
12 to challenge the validity of a court order during a contempt proceeding;
13 and

14 (d) Colorado has an interest in permitting people to challenge
15 court orders that infringe on their first amendment rights.

16 (2) Therefore, the general assembly intends to create an exception
17 to the collateral bar rule that allows a person subject to a court order to
18 collaterally attack the constitutionality of that court order in a contempt
19 proceeding.

20 **SECTION 2.** In Colorado Revised Statutes, **add** 13-20-1102 as
21 follows:

22 **13-20-1102. First amendment challenge to underlying court**
23 **order in contempt proceeding.** NOTWITHSTANDING ANY OTHER
24 PERMITTED LEGAL CHALLENGE, A PERSON WHO IS SUBJECT TO A COURT
25 ORDER MAY, IN A CONTEMPT PROCEEDING ALLEGING THE PERSON
26 VIOLATED THE COURT ORDER, INCLUDING IN AN APPEAL OF A CONTEMPT

1 JUDGMENT, CHALLENGE THE CONSTITUTIONALITY OF THE COURT ORDER
2 ON THE GROUNDS THAT THE COURT ORDER VIOLATES THE PERSON'S RIGHTS
3 UNDER THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION.

4 **SECTION 3. Applicability.** This act applies to court orders
5 issued on, before, or after the effective date of this act.

6 **SECTION 4. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly; except
9 that, if a referendum petition is filed pursuant to section 1 (3) of article V
10 of the state constitution against this act or an item, section, or part of this
11 act within such period, then the act, item, section, or part will not take
12 effect unless approved by the people at the general election to be held in
13 November 2024 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.