

SB015_L.009

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

SB18-015 be amended as follows:

1 Amend reengrossed bill, page 2, strike lines 4 through 6 and substitute:

2 "SECTION 2. In Colorado Revised Statutes, add article 40.1 to
3 title 13 as follows:

4 **ARTICLE 40.1**

5 **Removal of Unauthorized Persons**

6 **13-40.1-101. Removal of unauthorized persons - definitions."**

7 Page 2, line 7, strike "SECTION," and substitute "ARTICLE 40.1,".

8 Page 2, strike lines 8 through 10 and substitute "REQUIRES:

9 (a) "RESIDENTIAL PREMISES" MEANS A DWELLING UNIT, THE
10 STRUCTURE OF WHICH THE UNIT IS A PART, AND ANY IMMEDIATELY
11 SURROUNDING PROPERTY THAT IS OWNED BY OR SUBJECT TO THE
12 EXCLUSIVE CONTROL OF THE SAME PERSON AS THE DWELLING UNIT ITSELF.

13 (b) "UNAUTHORIZED PERSON" MEANS A PERSON WHO ENTERS AN
14 UNINHABITED OR VACANT RESIDENTIAL PREMISES, WITHOUT PERMISSION
15 OF THE OWNER OR AN AUTHORIZED AGENT OF THE OWNER, AND OCCUPIES
16 THE RESIDENTIAL PREMISES WITHOUT ANY AGREEMENT CONCERNING THE
17 USE OF THE RESIDENTIAL PREMISES OR PAYMENT OF RENT FOR SUCH USE."

18 Page 2, strike lines 14 through 17 and substitute "RESIDENTIAL PREMISES
19 BY FILING WITH THE COUNTY COURT A COMPLAINT AND A VERIFIED
20 MOTION FOR A TEMPORARY MANDATORY INJUNCTION RESTORING
21 POSSESSION OF THE RESIDENTIAL PROPERTY TO THE OWNER OR LAWFUL
22 OCCUPANT. THE VERIFIED MOTION MUST IDENTIFY THE UNAUTHORIZED
23 PERSON OR PERSONS AND INCLUDE STATEMENTS SUBSTANTIALLY AS
24 FOLLOWS:

25 **VERIFIED MOTION FOR ORDER TO**
26 **REMOVE UNAUTHORIZED PERSONS**

27 Page 3, strike line 3 and substitute "..... REQUESTS THAT THE COURT
28 HOLD A HEARING AS SOON AS PRACTICABLE AND THAT THE COURT ENTER
29 A TEMPORARY MANDATORY INJUNCTION ORDERING THAT THE PERSON OR
30 PERSONS CURRENTLY OCCUPYING THE RESIDENTIAL PREMISES BE
31 REMOVED FROM THE PREMISES AND BE ORDERED NOT TO RETURN TO THE
32 PREMISES FOR A PERIOD OF FOURTEEN DAYS. IN SUPPORT OF THE REQUEST,
33 THE UNDERSIGNED OWNER OR AUTHORIZED AGENT HEREBY REPRESENTS
34 AND DECLARES UNDER THE".

35 Page 3, strike lines 10 through 15.

1 Page 3, line 16, strike "5." and substitute "3."

2 Page 3, strike lines 19 through 27 and substitute:

3 "4. [] THE DECLARANT HAS INFORMED THE UNAUTHORIZED
4 PERSON OR PERSONS THAT HE OR SHE IS GOING TO COURT TO
5 REQUEST A TEMPORARY MANDATORY INJUNCTION
6 RESTORING THE OWNER TO POSSESSION AND SHALL DELIVER
7 A COPY OF THIS VERIFIED MOTION FOR ORDER TO REMOVE
8 UNAUTHORIZED PERSONS FORM TO THE UNAUTHORIZED
9 PERSON OR PERSONS;"

10 Page 4, strike lines 1 through 5.

11 Page 4, line 6, strike "9." and substitute "5."

12 Page 4, line 10, strike "10." and substitute "6."

13 Page 4, lines 14 and 15, strike "DECLARATION PROVIDED TO LAW
14 ENFORCEMENT" and substitute "MOTION FILED WITH THE COUNTY COURT".

15 Page 4, strike lines 19 through 23 and substitute:

16 "(4) (a) THE COUNTY COURT SHALL CONSIDER THE COMPLAINT
17 AND MOTION FOR TEMPORARY MANDATORY INJUNCTION UNDER THIS
18 SECTION AND CONDUCT A HEARING ON THE MOTION AS SOON AS
19 PRACTICABLE, BUT IN NO EVENT LATER THAN TWO COURT DAYS AFTER THE
20 FILING OF THE MOTION.

21 (b) (I) THE SUMMONS, COMPLAINT, MOTION, AND NOTICE
22 REQUIRED BY SUBSECTION (4)(b)(III) OF THIS SECTION SHALL EITHER BE
23 SERVED BY PERSONAL SERVICE UPON THE DEFENDANT, AS IN ANY CIVIL
24 ACTION, BY A PERSON QUALIFIED UNDER THE COLORADO RULES OF
25 COUNTY COURT CIVIL PROCEDURE TO SERVE PROCESS, OR SUCH PERSON
26 MAY MAKE SERVICE BY POSTING A COPY OF THE SUMMONS, COMPLAINT,
27 MOTION, AND NOTICE REQUIRED BY SUBSECTION (4)(b)(III) OF THIS
28 SECTION IN SOME CONSPICUOUS PLACE UPON THE PREMISES.

29 (II) PERSONAL SERVICE OR SERVICE BY POSTING MUST BE MADE AT
30 LEAST TWENTY-FOUR HOURS BEFORE THE TIME FOR APPEARANCE
31 SPECIFIED IN SUCH SUMMONS AND NOTICE, AND THE TIME AND MANNER OF
32 THE SERVICE MUST BE ENDORSED UPON SUCH SUMMONS BY THE PERSON
33 MAKING SERVICE THEREOF.

34 (III) THE WRITTEN NOTICE OF THE DATE, TIME, AND LOCATION OF
35 THE HEARING MUST BE SERVED WITH THE COMPLAINT. THE NOTICE MUST
36 BE PRINTED IN BLACK INK AND HAVE A FONT SIZE OF NOT LESS THAN
37 TWELVE AND IN SUBSTANTIALLY THE FOLLOWING FORM:

38 NOTICE
39 ON [DATE], [YEAR], AT [TIME] IN COURTROOM [NUMBER],

1 [COURTHOUSE NAME], [COURTHOUSE ADDRESS], THE COURT
2 WILL HOLD A HEARING ON A MOTION FOR AN ORDER FOR
3 TEMPORARY MANDATORY INJUNCTION IN ORDER TO
4 REQUIRE THE REMOVAL FROM THE RESIDENTIAL PREMISES
5 LOCATED AT [RESIDENTIAL PREMISES ADDRESS] OF EACH
6 UNAUTHORIZED PERSON IDENTIFIED IN THE MOTION THAT
7 ACCOMPANIES THIS NOTICE. IF YOU ARE IDENTIFIED AS AN
8 UNAUTHORIZED PERSON AND IF YOU BELIEVE THAT IS NOT
9 TRUE, THEN YOU MUST ATTEND THE HEARING AND PRESENT
10 ANY EVIDENCE SUPPORTING YOUR POSITION. **IF YOU FAIL
11 TO ATTEND THE HEARING, THE COURT MAY
12 ENTER AN ORDER INSTRUCTING THE SHERIFF
13 OR OTHER LAW ENFORCEMENT OFFICER TO
14 REMOVE YOU FROM THE RESIDENTIAL
15 PREMISES IMMEDIATELY.**

16 (c) ANY OCCUPANT OF THE RESIDENTIAL PREMISES WHO DISPUTES
17 THAT HE OR SHE IS AN UNAUTHORIZED PERSON MAY APPEAR AT THE
18 HEARING AND MUST BE PERMITTED TO PROVIDE TESTIMONY AND OTHER
19 EVIDENCE THAT THE OCCUPANT IS NOT AN UNAUTHORIZED PERSON. THE
20 COURT, IN ITS DISCRETION, MAY ACCEPT A WRITTEN STATEMENT
21 SUBMITTED TO THE COURT PRIOR TO THE COMMENCEMENT OF THE
22 HEARING IN LIEU OF PERSONAL TESTIMONY FROM THE OCCUPANT.

23 (d) IF NO PERSON IDENTIFIED IN THE MOTION AS AN UNAUTHORIZED
24 PERSON APPEARS AT THE HEARING, AND NO WRITTEN STATEMENT THAT
25 THE COURT DEEMS SUFFICIENT IS FILED IN OPPOSITION TO THE MOTION, THE
26 COURT MAY PROCEED TO RULE ON THE MOTION BASED ON THE CONTENTS
27 OF THE MOTION AND ANY ADDITIONAL TESTIMONY OFFERED BY THE
28 MOVING PARTY. THE COURT MAY, BUT NEED NOT, REQUIRE THE MOVING
29 PARTY TO CONFIRM IN ORAL TESTIMONY THE FACTS RECITED IN THE
30 MOTION AND MAY MAKE SUCH OTHER INQUIRY OF THE OWNER OR
31 AUTHORIZED AGENT AS THE COURT DETERMINES PROPER UNDER THE
32 CIRCUMSTANCES. AFTER TAKING TESTIMONY FROM THE MOVING PARTY
33 AND ANY OCCUPANT WHO CONTESTS THE MOTION OR AFTER CONSIDERING
34 THE CONTENT OF THE MOTION OR WRITTEN STATEMENT, THE COURT SHALL
35 DETERMINE WHETHER THE OCCUPANT IS AN UNAUTHORIZED PERSON. IF
36 THE COURT DETERMINES THAT THE OCCUPANT IS AN UNAUTHORIZED
37 PERSON, THE COURT SHALL ENTER AN ORDER FOR A TEMPORARY
38 MANDATORY INJUNCTION PRIOR TO ADJOURNING THE HEARING, WHICH
39 ORDER MAY INCLUDE SUCH ADDITIONAL TERMS OR LIMITATIONS AS THE
40 COURT MAY IN ITS DISCRETION DETERMINE NECESSARY AND EQUITABLE
41 UNDER THE CIRCUMSTANCES. IF THE COURT DETERMINES THAT THE
42 OCCUPANT IS NOT AN UNAUTHORIZED PERSON, THE COURT SHALL DENY
43 THE MOTION FOR AN ORDER FOR TEMPORARY MANDATORY INJUNCTION. IF
44 AN ORDER FOR TEMPORARY MANDATORY INJUNCTION IS DENIED, THE
45 OWNER IS NOT PREJUDICED FROM THEREAFTER COMMENCING AN EVICTION

1 PURSUANT TO SECTION 13-40-101.

2 (e) THE COURT SHALL NOT REQUIRE THE APPOINTMENT OF AN
3 ATTORNEY TO REPRESENT ANY OCCUPANT OR OTHER INTERESTED PERSON
4 AS A CONDITION OF CONSIDERING SUCH MOTION, UNLESS IT APPEARS FROM
5 THE MOTION OR OTHER PAPERS FILED WITH THE COURT THAT THERE IS A
6 REASONABLE PROBABILITY THAT THE OCCUPANT IS IN MILITARY SERVICE.

7 (f) NOTWITHSTANDING THE PROVISIONS OF SECTION 13-32-101
8 (1)(c), NEITHER A PETITIONER NOR A RESPONDENT IN AN ACTION
9 COMMENCED PURSUANT TO THIS SECTION IS REQUIRED TO PAY A DOCKET
10 FEE.

11 (g) IF THE COURT GRANTS THE ORDER FOR TEMPORARY
12 MANDATORY INJUNCTION, THE OWNER OR HIS OR HER AUTHORIZED AGENT
13 MAY DELIVER THE ORDER FOR TEMPORARY MANDATORY INJUNCTION TO
14 ANY LAW ENFORCEMENT AGENCY HAVING JURISDICTION TO ENFORCE THE
15 ORDER.

16 (5) (a) WITHIN TWENTY-FOUR HOURS AFTER RECEIPT OF ORDER
17 FOR TEMPORARY MANDATORY INJUNCTION, A".

18 Page 5, line 3, strike "DECLARATION" and substitute "MOTION FILED WITH
19 THE COUNTY COURT".

20 Page 5, strike lines 10 through 27.

21 Page 6, strike lines 1 and 2.

22 Page 6, strike lines 3 through 9 and substitute:

23 **"13-40.1-102. Unauthorized alteration or damage of a**
24 **residential property.** (1) IF A PERSON'S CONDUCT SATISFIES ALL OF THE
25 ELEMENTS OF SECTION 18-4-501, THE PERSON WHO IS REMOVED FROM A
26 RESIDENTIAL PROPERTY PURSUANT TO SECTION 13-40.1-101 AND WHO
27 KNOWINGLY DAMAGES THE REAL OR PERSONAL PROPERTY OF ONE OR
28 MORE OTHER PERSONS MAY HAVE COMMITTED CRIMINAL MISCHIEF."

29 Renumber succeeding subsection accordingly.

30 Page 6, line 17, strike "18-4-504.2" and substitute "13-40.1-101".

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