

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO  
UNOFFICIAL PREAMENDED VERSION

*This Version Includes All Amendments  
Adopted in the House of Introduction*

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.*

SENATE  
UNOFFICIAL PREAMENDED VERSION  
January 29, 2018

SENATE  
Amended 2nd Reading  
January 25, 2018



1 THE RESIDENTIAL PREMISES WITHOUT ANY AGREEMENT CONCERNING THE  
2 USE OF THE RESIDENTIAL PREMISES OR PAYMENT OF RENT FOR SUCH USE.  
3 (2) THE OWNER OF A RESIDENTIAL PREMISES, OR HIS OR HER  
4 AUTHORIZED AGENT, MAY INITIATE THE INVESTIGATION OF AND REQUEST  
5 THE REMOVAL OF AN UNAUTHORIZED PERSON OR PERSONS FROM THE  
6 RESIDENTIAL PREMISES BY FILING WITH THE COUNTY COURT A COMPLAINT  
7 AND A VERIFIED MOTION FOR A TEMPORARY MANDATORY INJUNCTION  
8 RESTORING POSSESSION OF THE RESIDENTIAL PROPERTY TO THE OWNER OR  
9 LAWFUL OCCUPANT. THE VERIFIED MOTION MUST IDENTIFY THE  
10 UNAUTHORIZED PERSON OR PERSONS AND INCLUDE STATEMENTS  
11 SUBSTANTIALLY AS FOLLOWS:

12 VERIFIED MOTION FOR ORDER TO  
13 REMOVE UNAUTHORIZED PERSONS

14 THE UNDERSIGNED OWNER, OR AUTHORIZED AGENT  
15 OF THE OWNER, OF THE RESIDENTIAL PREMISES LOCATED AT  
16 ..... REQUESTS THAT THE COURT HOLD A HEARING AS  
17 SOON AS PRACTICABLE AND THAT THE COURT ENTER A  
18 TEMPORARY MANDATORY INJUNCTION ORDERING THAT THE  
19 PERSON OR PERSONS CURRENTLY OCCUPYING THE  
20 RESIDENTIAL PREMISES BE REMOVED FROM THE PREMISES  
21 AND BE ORDERED NOT TO RETURN TO THE PREMISES FOR A  
22 PERIOD OF FOURTEEN DAYS. IN SUPPORT OF THE REQUEST,  
23 THE UNDERSIGNED OWNER OR AUTHORIZED AGENT HEREBY  
24 REPRESENTS AND DECLARES UNDER THE PENALTY OF  
25 PERJURY THAT (INITIAL EACH BOX):  
26 1. [ ] THE DECLARANT IS THE OWNER OF THE PREMISES OR  
27 THE AUTHORIZED AGENT OF THE OWNER OF THE PREMISES;

1           2. [ ] AN UNAUTHORIZED PERSON OR PERSONS HAVE  
2           ENTERED AND ARE REMAINING UNLAWFULLY ON THE  
3           PREMISES;

4           

5           3! [ ] THE DECLARANT HAS DEMANDED THAT THE  
6           UNAUTHORIZED PERSON OR PERSONS VACATE THE PREMISES  
7           BUT THEY HAVE NOT DONE SO;

8           ~~4. [ ] THE DECLARANT HAS INFORMED THE UNAUTHORIZED~~  
9           ~~PERSON OR PERSONS THAT HE OR SHE IS GOING TO COURT TO~~  
10           ~~REQUEST A TEMPORARY MANDATORY INJUNCTION~~  
11           ~~RESTORING THE OWNER TO POSSESSION AND SHALL DELIVER~~  
12           ~~A COPY OF THIS VERIFIED MOTION FOR ORDER TO REMOVE~~  
13           ~~UNAUTHORIZED PERSONS FORM TO THE UNAUTHORIZED~~  
14           ~~PERSON OR PERSONS;~~

15           

16           5! [ ] THE DECLARANT AGREES TO INDEMNIFY AND HOLD  
17           HARMLESS ANY PEACE OFFICER AND THE OFFICER'S LAW  
18           ENFORCEMENT AGENCY FOR ACTIONS OR OMISSIONS MADE  
19           IN GOOD FAITH PURSUANT TO THIS DECLARATION; AND

20           6! [ ] ADDITIONAL OPTIONAL EXPLANATORY COMMENTS OR  
21           STATEMENT THAT THE PREMISES HAS BEEN ALTERED OR  
22           DAMAGED:

23           .....

24           (3) A DECLARANT WHO FALSELY SWEARS ON A MOTION FILED WITH  
25           THE COUNTY COURT PURSUANT TO THIS SECTION MAY BE PROSECUTED FOR  
26           PERJURY IN THE FIRST OR SECOND DEGREE, AS DESCRIBED IN SECTION  
27           18-8-502 OR 18-8-503, OR FALSE SWEARING, AS DESCRIBED IN SECTION

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1 18-8-504.

2 (4)(a) THE COUNTY COURT SHALL CONSIDER THE COMPLAINT AND  
3 MOTION FOR TEMPORARY MANDATORY INJUNCTION UNDER THIS SECTION  
4 AND CONDUCT A HEARING ON THE MOTION AS SOON AS PRACTICABLE, BUT  
5 IN NO EVENT LATER THAN TWO COURT DAYS AFTER THE FILING OF THE  
6 MOTION.

7 (b) (I) THE SUMMONS, COMPLAINT, MOTION, AND NOTICE  
8 REQUIRED BY SUBSECTION (4)(b)(II) OF THIS SECTION SHALL EITHER BE  
9 SERVED BY PERSONAL SERVICE UPON THE DEFENDANT, AS IN ANY CIVIL  
10 ACTION, BY A PERSON QUALIFIED UNDER THE COLORADO RULES OF  
11 COUNTY COURT CIVIL PROCEDURE TO SERVE PROCESS, OR SUCH PERSON  
12 MAY MAKE SERVICE BY POSTING A COPY OF THE SUMMONS, COMPLAINT,  
13 MOTION, AND NOTICE REQUIRED BY SUBSECTION (4)(b)(II) OF THIS  
14 SECTION IN SOME CONSPICUOUS PLACE UPON THE PREMISES.

15 (II) PERSONAL SERVICE OR SERVICE BY POSTING MUST BE MADE AT  
16 LEAST TWENTY-FOUR HOURS BEFORE THE TIME FOR APPEARANCE  
17 SPECIFIED IN SUCH SUMMONS AND NOTICE, AND THE TIME AND MANNER OF  
18 THE SERVICE MUST BE ENDORSED UPON SUCH SUMMONS BY THE PERSON  
19 MAKING SERVICE THEREOF.

20 (II) THE WRITTEN NOTICE OF THE DATE, TIME, AND LOCATION OF  
21 THE HEARING MUST BE SERVED WITH THE COMPLAINT. THE NOTICE MUST  
22 BE PRINTED IN BLACK INK AND HAVE A FONT SIZE OF NOT LESS THAN  
23 TWELVE AND IN SUBSTANTIALLY THE FOLLOWING FORM:

24 **NOTICE**

25 ON [DATE], [YEAR], AT [TIME] IN [COURTROOM [NUMBER]],  
26 [COURTHOUSE NAME], [COURTHOUSE ADDRESS], THE COURT  
27 WILL HOLD A HEARING ON A MOTION FOR AN ORDER FOR

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

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

21 (d) IF NO PERSON IDENTIFIED IN THE MOTION AS AN UNAUTHORIZED  
22 PERSON APPEARS AT THE HEARING, AND NO WRITTEN STATEMENT THAT  
23 THE COURT DEEMS SUFFICIENT IS FILED IN OPPOSITION TO THE MOTION, THE  
24 COURT MAY PROCEED TO RULE ON THE MOTION BASED ON THE CONTENTS  
25 OF THE MOTION AND ANY ADDITIONAL TESTIMONY OFFERED BY THE  
26 MOVING PARTY. THE COURT MAY, BUT NEED NOT, REQUIRE THE MOVING  
27 PARTY TO CONFIRM IN ORAL TESTIMONY THE FACTS RECITED IN THE

1 MOTION AND MAY MAKE SUCH OTHER INQUIRY OF THE OWNER OR  
2 AUTHORIZED AGENT AS THE COURT DETERMINES PROPER UNDER THE  
3 CIRCUMSTANCES. AFTER TAKING TESTIMONY FROM THE MOVING PARTY  
4 AND ANY OCCUPANT WHO CONTESTS THE MOTION OR AFTER CONSIDERING  
5 THE CONTENT OF THE MOTION OR WRITTEN STATEMENT, THE COURT SHALL  
6 DETERMINE WHETHER THE OCCUPANT IS AN UNAUTHORIZED PERSON. IF  
7 THE COURT DETERMINES THAT THE OCCUPANT IS AN UNAUTHORIZED  
8 PERSON, THE COURT SHALL ENTER AN ORDER FOR A TEMPORARY  
9 MANDATORY INJUNCTION PRIOR TO ADJOURNING THE HEARING, WHICH  
10 ORDER MAY INCLUDE SUCH ADDITIONAL TERMS OR LIMITATIONS AS THE  
11 COURT MAY IN ITS DISCRETION DETERMINE NECESSARY AND EQUITABLE  
12 UNDER THE CIRCUMSTANCES. IF THE COURT DETERMINES THAT THE  
13 OCCUPANT IS NOT AN UNAUTHORIZED PERSON, THE COURT SHALL DENY  
14 THE MOTION FOR AN ORDER FOR TEMPORARY MANDATORY INJUNCTION. IF  
15 AN ORDER FOR TEMPORARY MANDATORY INJUNCTION IS DENIED, THE  
16 OWNER IS NOT PREJUDICED FROM THEREAFTER COMMENCING AN EVICTION  
17 PURSUANT TO SECTION 13-40-101.

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

23 (f) NOTWITHSTANDING THE PROVISIONS OF SECTION 13-32-101  
24 (1)(C), NEITHER A PETITIONER NOR A RESPONDENT IN AN ACTION  
25 COMMENCED PURSUANT TO THIS SECTION IS REQUIRED TO PAY A DOCKET  
26 FEE.

27 (g) IF THE COURT GRANTS THE ORDER FOR TEMPORARY

1 MANDATORY INJUNCTION, THE OWNER OR HIS OR HER AUTHORIZED AGENT  
2 MAY DELIVER THE ORDER FOR TEMPORARY MANDATORY INJUNCTION TO  
3 ANY LAW ENFORCEMENT AGENCY HAVING JURISDICTION TO ENFORCE THE  
4 ORDER!

5 (5) (a) WITHIN TWENTY-FOUR HOURS AFTER RECEIPT OF ORDER  
6 FOR TEMPORARY MANDATORY INJUNCTION, A PEACE OFFICER SHALL:

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

9 (II) ORDER THE PERSON OR PERSONS TO REMAIN OFF THE  
10 RESIDENTIAL PREMISES OR BE SUBJECT TO ARREST FOR CRIMINAL  
11 TRESPASS.

12 (b) IF THE MOTION FILED WITH THE COUNTY COURT INCLUDES A  
13 STATEMENT THAT THE PROPERTY HAS BEEN ALTERED OR DAMAGED OR THE  
14 PEACE OFFICER SEES EVIDENCE THAT THE PROPERTY HAS BEEN ALTERED  
15 OR DAMAGED, THE PEACE OFFICER SHALL COLLECT PERSONAL  
16 INFORMATION FROM THE PERSON OR PERSONS AND SHALL PROVIDE THAT  
17 INFORMATION TO THE DECLARANT.

18

19

20 13-40.1-102. Unauthorized alteration or damage of a  
21 residential property. (1) IF A PERSON'S CONDUCT SATISFIES ALL OF THE  
22 ELEMENTS OF SECTION 18-4-501, THE PERSON WHO IS REMOVED FROM A  
23 RESIDENTIAL PROPERTY PURSUANT TO SECTION 13-40.1-101 AND WHO  
24 KNOWINGLY DAMAGES THE REAL OR PERSONAL PROPERTY OF ONE OR  
25 MORE OTHER PERSONS MAY HAVE COMMITTED CRIMINAL MISCHIEF!

26 (2) NOTHING IN THIS SECTION PRECLUDES THE PROSECUTION OF  
27 VIOLATIONS UNDER ANY OTHER PROVISION OF LAW.

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1           **SECTION 2.** In Colorado Revised Statutes, add 13-21-129 as  
2 follows:

3           **13-21-129. Civil liability for false statement to recover**  
4 **possession of real property.** IN ADDITION TO ANY OTHER REMEDIES, A  
5 PERSON REMOVED FROM A RESIDENTIAL PREMISES PURSUANT TO SECTION  
6 13-40.1-101 ON THE BASIS OF FALSE STATEMENTS MADE BY A DECLARANT  
7 HAS A PRIVATE CAUSE OF ACTION AGAINST THE DECLARANT. IN THE  
8 ACTION, THE PLAINTIFF IS ENTITLED TO ACTUAL DAMAGES, ATTORNEY  
9 FEES, AND COSTS.

10           **SECTION 3. Effective date - applicability.** This act takes effect  
11 July 1, 2018, and applies to requests for removal and offenses committed  
12 on or after said date.

13           **SECTION 4. Safety clause.** The general assembly hereby finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, and safety.