

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0966.02 Jacob Baus x2173

**HOUSE BILL 21-1309**

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**HOUSE SPONSORSHIP**

**Roberts and Carver,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING MEASURES RELATED TO PERMITTING CONTINUING A**  
102 **CRIMINAL TRIAL BECAUSE OF THE COVID-19 PANDEMIC.**

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**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>.)*

Under existing law, a criminal defendant must be brought to trial within 6 months after the date of the entry of a plea of not guilty. However, there are circumstances that exclude a period of time when computing the time within which a defendant must be brought to trial. These exclusions extend the length of time within which the defendant must be brought to trial.

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.

The bill permits the court to exclude a period of delay caused by the COVID-19 pandemic, not to exceed 6 months, if the case includes a charge of a certain crime and other considerations are satisfied. The court may grant not more than 2 continuances due to a period of delay caused by the COVID-19 pandemic.

The bill requires the court that orders an exclusion of a period of delay caused by the COVID-19 pandemic to conduct a hearing for reconsideration of bond for an eligible defendant in custody awaiting trial.

A court shall not grant a continuance based on a delay caused by the COVID-19 pandemic on or after 5:01 p.m. on April 29, 2022.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1-405, **amend** (6)  
3 introductory portion and (6)(i); and **add** (6)(j) and (8) as follows:

4 **18-1-405. Speedy trial - definition - repeal.** (6) In computing  
5 the time within which a defendant ~~shall be~~ IS brought to trial as provided  
6 in subsection (1) of this section, the following periods of time ~~shall be~~  
7 ARE excluded:

8 (i) The period of delay between the filing of a motion pursuant to  
9 section 18-1-202 (11) and any decision by the court regarding such  
10 motion, and if such decision by the court transfers the case to another  
11 county, the period of delay until the first appearance of all the parties in  
12 a court of appropriate jurisdiction in the county to which the case has  
13 been transferred, and in such event ~~the provisions of~~ subsection (7) of this  
14 section ~~shall apply.~~ APPLIES; AND

15 (j) (I) UPON A MOTION BY THE COURT SUA SPONTE, A PERIOD OF  
16 DELAY FOR ANY CONTINUANCE DUE TO THE BACKLOG OF JURY TRIALS  
17 DIRECTLY RESULTING FROM A RESTRICTION, PROCEDURE, OR PROTOCOL  
18 IMPLEMENTED DURING THE 2020 AND 2021 HEALTH EMERGENCY RELATED  
19 TO THE COVID-19 PANDEMIC, NOT TO EXCEED SIX MONTHS IF THE

1 DEFENDANT IS NOT IN CUSTODY FOR THE CASE PENDING A JURY TRIAL OR  
2 NOT TO EXCEED THREE MONTHS IF THE DEFENDANT IS IN CUSTODY FOR THE  
3 CASE PENDING A JURY TRIAL. THE BACKLOG OF JURY TRIALS RESULTING  
4 FROM THE COVID-19 PANDEMIC DOES NOT INCLUDE ANY CONSISTENT  
5 AND ONGOING JURY TRIAL BACKLOG THAT EXISTED PRIOR TO MARCH 1,  
6 2020. THE COURT MAY GRANT ONLY ONE CONTINUANCE PURSUANT TO  
7 THIS SUBSECTION (6)(j) IF IT MAKES THE FOLLOWING SPECIFIC FINDINGS ON  
8 THE RECORD AFTER THE PROSECUTION AND DEFENDANT HAVE HAD THE  
9 OPPORTUNITY TO BE HEARD:

10 (A) THE CASE IS A PART OF A COURT BACKLOG OF JURY TRIALS  
11 DIRECTLY RESULTING FROM A RESTRICTION, PROCEDURE, OR PROTOCOL  
12 IMPLEMENTED DURING THE 2020 AND 2021 HEALTH EMERGENCY RELATED  
13 TO THE COVID-19 PANDEMIC, AND THE COURT HAS DETERMINED, BASED  
14 ON AVAILABLE EVIDENCE, THAT A CONTINUANCE IS NOT ATTRIBUTABLE TO  
15 ANY CONSISTENT AND ONGOING JURY TRIAL BACKLOG THAT EXISTED  
16 PRIOR TO MARCH 1, 2020;

17 (B) NO COURT IN THE COUNTY WITH JURISDICTION TO TRY THE  
18 CASE IS AVAILABLE, AND THE COURT HAS EXHAUSTED ALL REASONABLE  
19 MEANS TO BRING THE CASE TO TRIAL;

20 (C) THE COURT HAS NOT PREVIOUSLY GRANTED A CONTINUANCE  
21 PURSUANT TO THIS SUBSECTION (6)(j); AND

22 (D) GRANTING THE CONTINUANCE SERVES THE INTEREST OF  
23 JUSTICE. WHEN DETERMINING WHETHER THE CONTINUANCE SERVES THE  
24 INTEREST OF JUSTICE, THE COURT SHALL MAKE SPECIFIC FINDINGS  
25 REGARDING THE IMPACT OF A CONTINUANCE ON THE PROSECUTION AND  
26 THE DEFENDANT.

27 (II) IN CONSIDERING WHETHER TO GRANT A CONTINUANCE

1 PURSUANT TO THIS SUBSECTION (6)(j), THE COURT SHALL PRIORITIZE  
2 CASES TO PROCEED TO TRIAL THAT:

3 (A) WERE DECLARED A MISTRIAL PURSUANT TO RULE 24 (c)(4) OF  
4 THE COLORADO RULES OF CRIMINAL PROCEDURE;

5 (B) THE DEFENDANT IS IN CUSTODY IN THE CASE AND DOES NOT  
6 WAIVE SPEEDY TRIAL; OR

7 (C) INCLUDE A CHARGE OF A CRIME LISTED IN SECTION 24-4.1-302  
8 (1) TO ENSURE A VICTIM'S RIGHT TO A SWIFT AND FAIR RESOLUTION OF THE  
9 CASE PURSUANT TO SECTION 24-4.1-302.5 (1)(o).

10 (III) PRIOR TO GRANTING A CONTINUANCE PURSUANT TO THIS  
11 SUBSECTION (6)(j), THE COURT SHALL INFORM THE PROSECUTING  
12 ATTORNEY, AND THE PROSECUTING ATTORNEY SHALL NOTIFY AND  
13 RECEIVE INPUT FROM THE VICTIM, AS DEFINED IN SECTION 24-4.1-302 (5),  
14 TO GIVE TO THE COURT BEFORE THE COURT MAKES A FINAL  
15 DETERMINATION CONCERNING A CONTINUANCE. A VICTIM HAS THE RIGHT  
16 TO BE HEARD AT A COURT PROCEEDING CONCERNING A CONTINUANCE  
17 PURSUANT TO THIS SUBSECTION (6)(j).

18 (IV) IF A COURT GRANTS A CONTINUANCE PURSUANT TO THIS  
19 SUBSECTION (6)(j) AND THE DEFENDANT IS IN CUSTODY FOR THE CASE  
20 PENDING A JURY TRIAL BECAUSE THE DEFENDANT IS UNABLE TO SATISFY  
21 THE MONETARY CONDITIONS OF BOND FOR RELEASE DESPITE BEING  
22 ELIGIBLE FOR RELEASE, THE COURT SHALL RECONSIDER THE MONETARY  
23 CONDITIONS OF BOND FOR RELEASE PURSUANT TO SECTION 16-4-107.5.

24 (V) A COURT SHALL NOT GRANT A CONTINUANCE PURSUANT TO  
25 THIS SUBSECTION (6)(j) ON OR AFTER 5:01 P.M. ON APRIL 29, 2022.

26 (VI) THIS SUBSECTION (6)(j) IS REPEALED, EFFECTIVE JULY 1,  
27 2023.

1 (8) (a) THE JUDICIAL DEPARTMENT SHALL COLLECT THE  
2 FOLLOWING DATA FOR EACH CONTINUANCE GRANTED PURSUANT TO  
3 SUBSECTION (6)(j) OF THIS SECTION:

4 (I) THE JUDICIAL DISTRICT WHERE THE CONTINUANCE WAS  
5 GRANTED; AND

6 (II) THE HIGHEST CLASS OFFENSE CHARGED IN THE DEFENDANT'S  
7 CASE THAT WAS CONTINUED.

8 (b) THE JUDICIAL DEPARTMENT SHALL REPORT ON THE DATA  
9 COLLECTED PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION AT THE  
10 JOINT HEARINGS CONDUCTED IN 2022 AND 2023 PURSUANT TO THE "STATE  
11 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT  
12 (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

13 (c) ON OR BEFORE JANUARY 31, 2022, THE JUDICIAL DEPARTMENT  
14 SHALL PUBLISH THE DATA COLLECTED PURSUANT TO SUBSECTION (8)(a) OF  
15 THIS SECTION FOR THE PERIOD ON AND BEFORE DECEMBER 31, 2021. ON  
16 OR BEFORE MAY 31, 2022, THE JUDICIAL DEPARTMENT SHALL PUBLISH THE  
17 DATA COLLECTED PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION FOR  
18 THE PERIOD ON AND BEFORE APRIL 29, 2022.

19 (d) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JULY 1, 2023.

20 **SECTION 2.** In Colorado Revised Statutes, **add** 16-4-107.5 as  
21 follows:

22 **16-4-107.5. Hearing after excluding time for speedy trial for**  
23 **public health emergency - repeal.** (1) IF A COURT GRANTS A  
24 CONTINUANCE PURSUANT TO SECTION 18-1-405 (6)(j) FOR A CASE THAT  
25 DOES NOT INCLUDE A CHARGE OF A CLASS 1, 2, OR 3 FELONY, AND THE  
26 DEFENDANT IS IN CUSTODY FOR THE CASE PENDING A JURY TRIAL BECAUSE  
27 THE DEFENDANT IS UNABLE TO SATISFY THE MONETARY CONDITIONS OF

1 BOND FOR RELEASE DESPITE BEING ELIGIBLE FOR RELEASE, THE COURT  
2 SHALL ORDER THE IMMEDIATE RELEASE OF THE DEFENDANT FROM  
3 CUSTODY UPON A PERSONAL RECOGNIZANCE BOND WITHOUT MONETARY  
4 CONDITIONS.

5 (2) IF A COURT GRANTS A CONTINUANCE PURSUANT TO SECTION  
6 18-1-405 (6)(j) FOR A CASE THAT INCLUDES A CHARGE OF A CLASS 1, 2, OR  
7 3 FELONY, AND THE DEFENDANT IS IN CUSTODY BECAUSE THE DEFENDANT  
8 IS UNABLE TO SATISFY THE MONETARY CONDITIONS OF BOND FOR RELEASE  
9 DESPITE BEING ELIGIBLE FOR RELEASE, THE COURT SHALL CONDUCT A  
10 HEARING AS SOON AS PRACTICABLE, BUT NOT LONGER THAN SEVEN DAYS  
11 AFTER THE COURT GRANTED THE CONTINUANCE PURSUANT TO SECTION  
12 18-1-405 (6)(j), FOR RECONSIDERATION OF THE DEFENDANT'S MONETARY  
13 CONDITIONS OF BOND FOR RELEASE. THE COURT SHALL REVOKE THE  
14 MONETARY CONDITIONS OF BOND FOR RELEASE ALLOWING THE  
15 DEFENDANT TO BE RELEASED, UNLESS THE COURT CONCLUDES THAT THE  
16 DEFENDANT THREATENS THE SAFETY OF ANY OTHER PERSON OR PERSONS  
17 IN THE COMMUNITY, WHETHER KNOWN OR UNKNOWN, AND THAT  
18 MONETARY CONDITIONS OF BOND FOR RELEASE ARE NECESSARY TO  
19 REASONABLY PROTECT AGAINST SUCH RISK. THE COURT MAY MODIFY THE  
20 MONETARY CONDITIONS OF BOND TO ALLOW THE DEFENDANT TO BE  
21 RELEASED IF THE COURT CONCLUDES THAT THE DEFENDANT THREATENS  
22 THE SAFETY OF ANY OTHER PERSON OR PERSONS IN THE COMMUNITY,  
23 WHETHER KNOWN OR UNKNOWN, AND THAT MONETARY CONDITIONS OF  
24 BOND FOR RELEASE ARE NECESSARY TO REASONABLY PROTECT AGAINST  
25 SUCH RISK. FAILURE TO COMPLY WITH THIS SUBSECTION (2) REQUIRES THE  
26 COURT TO ORDER THE IMMEDIATE RELEASE OF THE DEFENDANT FROM  
27 CUSTODY UPON A PERSONAL RECOGNIZANCE BOND WITH APPROPRIATE

1     CONDITIONS OF RELEASE.

2             (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2023.

3             **SECTION 3. Safety clause.** The general assembly hereby finds,  
4     determines, and declares that this act is necessary for the immediate  
5     preservation of the public peace, health, or safety.