

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0541.01 Shelby Ross x4510

HOUSE BILL 23-1120

HOUSE SPONSORSHIP

Joseph and Ortiz, Garcia, Lieder, Velasco, Amabile, Bacon, Boesenecker, Brown, deGruy Kennedy, Dickson, English, Epps, Gonzales-Gutierrez, Herod, Jodeh, Lindsay, Mabrey, Parenti, Ricks, Sirota, Story, Titone, Vigil, Weissman, Willford

SENATE SPONSORSHIP

Fields and Winter F.,

House Committees

Judiciary
Appropriations

Senate Committees

Local Government & Housing
Appropriations

A BILL FOR AN ACT

101 CONCERNING EVICTION PROTECTIONS FOR RESIDENTIAL TENANTS
102 WHO RECEIVE PUBLIC ASSISTANCE, AND, IN CONNECTION
103 THEREWITH, MAKING AN APPROPRIATION.

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 requires a landlord and residential tenant to participate in mandatory mediation prior to commencing an eviction action if the residential tenant receives supplemental security income, federal social security disability insurance, or cash assistance through the Colorado works program (collectively, "cash assistance"). The landlord and

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

SENATE
Amended 2nd Reading
May 5, 2023

HOUSE
3rd Reading Unamended
April 13, 2023

HOUSE
Amended 2nd Reading
April 12, 2023

residential tenant do not have to participate in mediation if the residential tenant did not disclose or declined to disclose in writing to the landlord that the residential tenant receives cash assistance. Failure to comply with mandatory mediation is an affirmative defense.

The bill prohibits a law enforcement officer from executing a writ of restitution against a residential tenant for at least 30 days after the entry of judgment if the residential tenant receives cash assistance.

The bill requires a written rental agreement to include a statement that a residential tenant who receives cash assistance has a right to mediation prior to the landlord filing an eviction complaint with the court.

The bill prohibits a written rental agreement from including a waiver of mandatory mediation.

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

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

4 (a) There is a wide disparity in access to legal representation
5 between landlords and people experiencing eviction in Colorado. A 2021
6 study found that renters are represented by legal counsel in only one
7 percent of eviction cases, while landlords are represented in 77 percent
8 of cases.

9 (b) This disparity in access to legal representation creates an
10 imbalance in power during eviction proceedings;

11 (c) Prelitigation mediation helps to restore the balance of power
12 during eviction proceedings by facilitating communication between
13 renters and landlords in a neutral setting. Skilled, neutral mediators can
14 help guide the parties to find a reasonable and long-lasting alternative to
15 eviction.

16 (d) Colorado is experiencing a housing shortage. A 2022 report
17 from the general assembly's affordable housing and transformational task
18 force found that the state needs an additional 325,000 rental units to meet
19 current demand.

1 (e) People with disabilities face an additional barrier to finding
2 housing that meets their accessibility requirements;

3 (f) People who receive cash assistance face an additional barrier
4 to finding housing that is affordable on a fixed income; and

5 (g) Extending the period of time before law enforcement can
6 execute a writ of restitution gives a renter with disabilities or a renter who
7 receives cash assistance more time to find new housing and improves the
8 renter's likelihood of remaining housed.

9 (2) The general assembly further finds that:

10 (a) Evictions threaten existing affordable housing by creating
11 additional burdens for independent property owners, including legal fees,
12 unpaid rent and utility fees, additional vacancies, and resident turnover;
13 and

14 (b) Reducing evictions and preventing people from becoming
15 homeless saves taxpayers money by reducing public spending on court
16 costs, emergency shelter, medical care, foster care, and juvenile
17 delinquency.

18 (3) Therefore, the general assembly declares it is necessary to
19 avoid eviction proceedings and provide additional protections for people
20 with disabilities and people who receive cash assistance who are
21 experiencing an eviction.

22 **SECTION 2.** In Colorado Revised Statutes, 13-40-110, **amend**
23 **(1); and add (3)** as follows:

24 **13-40-110. Action - how commenced - report.** (1) (a) An action
25 under this ~~article~~ ARTICLE 40 is commenced by filing with the court a
26 complaint in writing describing the property with reasonable certainty, the
27 grounds for the recovery thereof, the name of the person in possession or

1 occupancy, and a prayer for recovery of possession, AND A SIGNED
2 AFFIDAVIT THAT STATES:

3 (I) THE RESIDENTIAL TENANT RECEIVES SUPPLEMENTAL SECURITY
4 INCOME, SOCIAL SECURITY DISABILITY INSURANCE UNDER TITLE II OF THE
5 FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 401 ET SEQ., AS
6 AMENDED, OR CASH ASSISTANCE THROUGH THE COLORADO WORKS
7 PROGRAM CREATED IN PART 7 OF ARTICLE 2 OF TITLE 26, AND THE
8 COMPLAINANT AND RESIDENTIAL TENANT PARTICIPATED IN MANDATORY
9 MEDIATION AND THE MEDIATION WAS UNSUCCESSFUL; ■

10 (II) THE COMPLAINANT AND RESIDENTIAL TENANT DID NOT
11 PARTICIPATE IN MANDATORY MEDIATION BECAUSE THE RESIDENTIAL
12 TENANT:

13 (A) DID NOT DISCLOSE OR DECLINED TO DISCLOSE IN WRITING IN
14 RESPONSE TO A WRITTEN INQUIRY FROM THE COMPLAINANT THAT THE
15 RESIDENTIAL TENANT RECEIVES SUPPLEMENTAL SECURITY INCOME, SOCIAL
16 SECURITY DISABILITY INSURANCE UNDER TITLE II OF THE FEDERAL
17 "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 401 ET SEQ., AS AMENDED, OR
18 CASH ASSISTANCE THROUGH THE COLORADO WORKS PROGRAM CREATED
19 IN PART 7 OF ARTICLE 2 OF TITLE 26; OR

20 (B) DOES NOT RECEIVE SUPPLEMENTAL SECURITY INCOME, SOCIAL
21 SECURITY DISABILITY INSURANCE UNDER TITLE II OF THE FEDERAL
22 "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 401 ET SEQ., AS AMENDED, OR
23 CASH ASSISTANCE THROUGH THE COLORADO WORKS PROGRAM CREATED
24 IN PART 7 OF ARTICLE 2 OF TITLE 26; OR

25 (III) THE COMPLAINANT AND RESIDENTIAL TENANT DID NOT
26 PARTICIPATE IN MANDATORY MEDIATION BECAUSE THE COMPLAINANT IS:

27 (A) A 501(c)(3) NONPROFIT ORGANIZATION THAT OFFERS

1 OPPORTUNITIES FOR MEDIATION TO RESIDENTIAL TENANTS PRIOR TO FILING
2 A RESIDENTIAL EVICTION IN COURT; OR

3 (B) A LANDLORD WITH FIVE OR FEWER SINGLE-FAMILY RENTAL
4 HOMES AND NO MORE THAN FIVE TOTAL RENTAL UNITS, INCLUDING ANY
5 SINGLE-FAMILY HOMES.

6 (b) MANDATORY MEDIATION MUST BE CONDUCTED BY A TRAINED
7 NEUTRAL THIRD PARTY AND BE PROVIDED AT NO COST TO THE
8 RESIDENTIAL TENANT. THE LANDLORD IS ONLY REQUIRED TO PAY FOR THE
9 LANDLORD'S PORTION OF THE MANDATORY MEDIATION. THE
10 COMPLAINANT AND RESIDENTIAL TENANT MAY HAVE LEGAL
11 REPRESENTATION PRESENT DURING THE MANDATORY MEDIATION. A
12 RESIDENTIAL TENANT MAY VOLUNTARILY WAIVE THE TENANT'S RIGHT TO
13 MANDATORY MEDIATION, BUT A WAIVER MUST NOT BE IN ANY LEASE
14 AGREEMENT OR OTHER AGREEMENT BETWEEN THE COMPLAINANT AND
15 RESIDENTIAL TENANT PURSUANT TO SECTION 38-12-801.

16 (c) THE OFFICE OF DISPUTE RESOLUTION, CREATED IN SECTION
17 13-22-303, SHALL SCHEDULE THE MANDATORY MEDIATION AT THE FIRST
18 AVAILABLE DATE, BUT NO LATER THAN FOURTEEN CALENDAR DAYS AFTER
19 THE LANDLORD REQUESTS THE MEDIATION.

20 (d) FAILURE TO COMPLY WITH THE MANDATORY MEDIATION
21 REQUIREMENTS OUTLINED IN THIS SUBSECTION (1) IS AN AFFIRMATIVE
22 DEFENSE. IF THE AFFIRMATIVE DEFENSE IS RAISED AND THE COMPLAINANT
23 CANNOT DEMONSTRATE THAT THE REQUIREMENTS WERE MET, THE COURT
24 SHALL DISMISS THE CASE WITHOUT PREJUDICE AND A NEW COMPLAINT
25 MUST BE FILED.

26 (e) The complaint may also set forth the amount of rent due, the
27 rate at which it is accruing, the amount of damages due, and the rate at

1 which they are accruing and may include a prayer for rent due or to
2 become due, present and future damages, costs, and any other relief to
3 which plaintiff is entitled.

4 (3) BEGINNING JANUARY, 2024, THE JUDICIAL DEPARTMENT SHALL
5 REPORT TO THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE AND
6 THE SENATE JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES,
7 DURING THE JUDICIAL DEPARTMENT'S "SMART ACT" HEARING THE TOTAL
8 NUMBER OF MEDIATIONS SCHEDULED BY THE OFFICE OF DISPUTE
9 RESOLUTION PURSUANT TO THIS SECTION, THE OUTCOMES OF THE
10 MEDIATIONS, AND THE COST OF THE MEDIATIONS FOR THE PREVIOUS
11 FISCAL YEAR.

12 **SECTION 3.** In Colorado Revised Statutes, 13-40-122, **amend**
13 (1) as follows:

14 **13-40-122. Writ of restitution after judgment.** (1) (a) A court
15 shall not issue a writ of restitution upon any judgment entered in any
16 action pursuant to this article 40 until forty-eight hours after the time of
17 the entry of the judgment. IF THE WRIT OF RESTITUTION CONCERNS A
18 RESIDENTIAL TENANT WHO RECEIVES SUPPLEMENTAL SECURITY INCOME,
19 SOCIAL SECURITY DISABILITY INSURANCE UNDER TITLE II OF THE FEDERAL
20 "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 401 ET SEQ., AS AMENDED, OR
21 CASH ASSISTANCE THROUGH THE COLORADO WORKS PROGRAM CREATED
22 IN PART 7 OF ARTICLE 2 OF TITLE 26, THE WRIT MUST SPECIFY THAT THE
23 WRIT IS NOT EXECUTABLE FOR THIRTY DAYS AFTER ENTRY OF JUDGMENT
24 PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION; EXCEPT IN THE CASE:

25 (I) IN WHICH A COURT HAS ORDERED A JUDGMENT FOR POSSESSION
26 FOR A SUBSTANTIAL VIOLATION PURSUANT TO SECTION 13-40-107.5; OR

27 (II) OF A LANDLORD WITH FIVE OR FEWER SINGLE FAMILY RENTAL

1 HOMES AND NO MORE THAN FIVE TOTAL RENTAL UNITS INCLUDING ANY
2 SINGLE FAMILY HOMES.

3 (b) A writ of restitution ~~shall~~ MUST be executed by the officer
4 having the same only in the daytime and between sunrise and sunset, and
5 the officer shall not execute a writ of restitution concerning a residential
6 tenancy until at least ten days after entry of the judgment; EXCEPT THAT
7 THE OFFICER SHALL NOT EXECUTE A WRIT OF RESTITUTION CONCERNING
8 A RESIDENTIAL TENANCY UNTIL AT LEAST THIRTY DAYS AFTER ENTRY OF
9 JUDGMENT IF THE RESIDENTIAL TENANT RECEIVES SUPPLEMENTAL
10 SECURITY INCOME, SOCIAL SECURITY DISABILITY INSURANCE UNDER TITLE
11 II OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 401 ET SEQ.,
12 AS AMENDED, OR CASH ASSISTANCE THROUGH THE COLORADO WORKS
13 PROGRAM CREATED IN PART 7 OF ARTICLE 2 OF TITLE 26, AS SPECIFIED IN
14 THE WRIT; EXCEPT IN THE CASE:

15 (I) IN WHICH A COURT HAS ORDERED A JUDGMENT FOR POSSESSION
16 FOR A SUBSTANTIAL VIOLATION PURSUANT TO SECTION 13-40-107.5; OR

17 (II) OF A LANDLORD WITH FIVE OR FEWER SINGLE FAMILY RENTAL
18 HOMES AND NO MORE THAN FIVE TOTAL RENTAL UNITS INCLUDING ANY
19 SINGLE FAMILY HOMES.

20 (c) Any writ of restitution governed by this section may be
21 executed by the county sheriff's office in which the property is located by
22 a sheriff, undersheriff, or deputy sheriff, as described in section
23 16-2.5-103 (1) or (2), while off duty or on duty at rates charged by the
24 employing sheriff's office in accordance with section 30-1-104 (1)(gg).

25 **SECTION 4.** In Colorado Revised Statutes, **amend** 13-40-106 as
26 follows:

27 **13-40-106. Written demand.** (1) The demand required by

1 section 13-40-104 shall be made in writing, specifying the grounds of the
2 demandant's right to the possession of such premises, describing the
3 same, and the time when the same shall be delivered up, and shall be
4 signed by the person claiming such possession, his agent, or his attorney.

5 (2) THE DEMAND MUST ALSO INCLUDE A STATEMENT THAT A
6 RESIDENTIAL TENANT WHO RECEIVES SUPPLEMENTAL SECURITY INCOME,
7 SOCIAL SECURITY DISABILITY INSURANCE UNDER TITLE II OF THE FEDERAL
8 "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 401 ET SEQ., AS AMENDED, OR
9 CASH ASSISTANCE THROUGH THE COLORADO WORKS PROGRAM CREATED
10 IN PART 7 OF ARTICLE 2 OF TITLE 26 HAS A RIGHT TO MEDIATION PRIOR TO
11 THE LANDLORD FILING AN EVICTION COMPLAINT WITH THE COURT
12 PURSUANT TO SECTION 13-40-110.

13 **SECTION 5.** In Colorado Revised Statutes, 24-34-502, **add** (1.8)
14 as follows:

15 **24-34-502. Unfair housing practices prohibited - definitions.**
16 (1.8) IT IS NOT A VIOLATION OF THIS SECTION FOR A LANDLORD TO ASK A
17 RESIDENTIAL TENANT WHETHER THE TENANT RECEIVES SUPPLEMENTAL
18 SECURITY INCOME, SOCIAL SECURITY DISABILITY INSURANCE UNDER TITLE
19 II OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 401 ET SEQ.,
20 AS AMENDED, OR CASH ASSISTANCE THROUGH THE COLORADO WORKS
21 PROGRAM CREATED IN PART 7 OF ARTICLE 2 OF TITLE 26 FOR THE PURPOSES
22 OF COMPLYING WITH SECTION 13-40-110 (1).

23 **SECTION 6.** In Colorado Revised Statutes, 38-12-801, **amend**
24 (3); and **add** (2.5) as follows:

25 **38-12-801. Written rental agreement - prohibited clauses -**
26 **copy - tenant.** (2.5) (a) A WRITTEN RENTAL AGREEMENT MUST INCLUDE
27 A STATEMENT THAT SECTION 24-34-502 (1) PROHIBITS SOURCE OF INCOME

1 DISCRIMINATION AND REQUIRES A NON-EXEMPT LANDLORD TO ACCEPT
2 ANY LAWFUL AND VERIFIABLE SOURCE OF MONEY PAID DIRECTLY,
3 INDIRECTLY, OR ON BEHALF OF A PERSON, INCLUDING INCOME DERIVED
4 FROM ANY LAWFUL PROFESSION OR OCCUPATION AND INCOME OR RENTAL
5 PAYMENTS DERIVED FROM ANY GOVERNMENT OR PRIVATE ASSISTANCE,
6 GRANT, OR LOAN PROGRAM.

7 (b) THIS SUBSECTION (2.5) DOES NOT APPLY TO A LANDLORD WITH
8 FIVE OR FEWER SINGLE FAMILY RENTAL HOMES AND NO MORE THAN FIVE
9 TOTAL RENTAL UNITS INCLUDING ANY SINGLE FAMILY HOMES.

10 (3) (a) A written rental agreement must not include:

11 (a) (I) An unreasonable liquidated damages clause that assigns a
12 cost to a party stemming from an eviction notice or an eviction action
13 from a violation of the rental agreement; or

14 (b) (II) A one-way, fee-shifting clause that awards attorney fees
15 and court costs only to one party. Any fee-shifting clause contained in a
16 rental agreement must award attorney fees to the prevailing party in a
17 court dispute concerning the rental agreement, residential premises, or
18 dwelling unit.

19 (III) A WAIVER OF MANDATORY MEDIATION REQUIRED PURSUANT
20 TO SECTION 13-40-110 (1); OR

21 (IV) A CLAUSE THAT ALLOWS A LANDLORD TO RECOUP ANY COSTS
22 ASSOCIATED WITH MANDATORY MEDIATION REQUIRED PURSUANT TO
23 SECTION 13-40-110 (1).

24 (c) (b) Any clause in violation of subsection (3)(a) or (3)(b) of this
25 section THIS SUBSECTION (3) is null and void and unenforceable.

26 **SECTION 7. Appropriation. (1) For the 2023-24 state fiscal**
27 **year, \$328,026 is appropriated to the judicial department for use by courts**

1 administration. This appropriation is from the general fund. To implement
2 this act, the department may use this appropriation as follows:

3 (a) \$246,076 for general courts administration, which amount is
4 based on an assumption that the department will require an additional 0.6
5 FTE;

6 (b) \$75,000 for information technology infrastructure; and

7 (c) \$6,950 for capital outlay.

8 **SECTION 8. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety.