

CHAPTER 415

COURTS

HOUSE BILL 23-1186

BY REPRESENTATIVE(S) Lindsay and Jodeh, Amabile, Bacon, Boesenecker, Brown, Dickson, Duran, Epps, Froelich, Garcia, Gonzales-Gutierrez, Herod, Joseph, Kipp, Mabrey, Marshall, Snyder, Story, Titone, Valdez, Vigil, Weissman, Willford, Woodrow, McCluskie;
also SENATOR(S) Exum and Jaquez Lewis, Buckner, Cutter, Fields, Gonzales, Marchman, Moreno, Priola, Sullivan, Winter F.

AN ACT**CONCERNING REMOTE PARTICIPATION IN A RESIDENTIAL EVICTION FILED IN COUNTY COURT, AND,
IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

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

(a) Many renters face significant barriers to appearing in court for an eviction in person, including work, child care, transportation, and living with a disability. Attending court proceedings in person can require renters facing eviction to miss work, find and fund child care, and incur transportation costs.

(b) Renters living in rural parts of Colorado may be particularly challenged in appearing in person for an eviction, as county courthouses may often be located dozens of miles away;

(c) When renters do not appear for an eviction court proceeding, a default judgment is automatically entered against them, and the renter is evicted without a hearing;

(d) Data shows that parties are more likely to participate in an eviction proceeding if there are options for remote participation. One study in Arizona found that when a county adopted processes for remote participation in eviction hearings, the percentage of renters who did not appear in court decreased from 40% to 13%.

(e) Ensuring that parties to an eviction proceeding can participate in the legal

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

process is in the best interest of all parties and a responsible use of government resources. A survey of litigants, attorneys, and other court participants on remote participation in court proceedings found that 92% of defendants cited reduced travel time, 76% cited taking less time off work, 72% reported reduced costs, and 55% reported increased safety as benefits of remote participation.

(f) Some Colorado courts have already adopted processes for remote participation in eviction hearings, which remove barriers to the parties' ability to appear in court. However, many courts throughout the state have yet to adopt such processes. This creates an inequitable and arbitrary procedural patchwork where access to the legal process depends on geography.

(g) Allowing parties to an eviction proceeding to choose how to appear at a hearing bolsters due process by increasing participation and reducing barriers in access to courts.

(2) The general assembly encourages the Colorado supreme court to review the necessary forms associated with filing an eviction case for efficacy and clarity, and determine whether the forms would be suitable for plain language updates.

(3) Therefore, the general assembly intends:

(a) To create uniform access to court processes by establishing statewide standards for remote appearances in residential eviction proceedings;

(b) To expand participation in residential eviction proceedings in order to decrease the number of evictions by default judgment caused by a party's inability to appear in court; and

(c) For any interpretation regarding the implementation of this act to be weighted toward expanding access to the judicial process and easing barriers to participation in residential evictions.

SECTION 2. In Colorado Revised Statutes, **add** 13-40-113.5 as follows:

13-40-113.5. Residential actions in county court - remote participation - electronic filing - procedures for technology failure - auxiliary services providers. (1) FOR A RESIDENTIAL ACTION FILED IN COUNTY COURT PURSUANT TO THIS ARTICLE 40:

(a) THE COURT SHALL ALLOW EITHER PARTY AND ANY WITNESS TO CHOOSE TO APPEAR IN PERSON OR REMOTELY BY PHONE OR VIDEO ON A PLATFORM DESIGNATED BY THE COURT AT ANY RETURN, CONFERENCE, HEARING, TRIAL, OR OTHER COURT PROCEEDING. EITHER PARTY AND ANY WITNESS MAY ELECT TO CHANGE HOW THE PARTY OR WITNESS INTENDS TO PARTICIPATE BY CONTACTING THE COURT; EXCEPT THAT, IF A PARTY OR WITNESS CONTACTS THE COURT WITHIN FORTY-EIGHT HOURS OF THE SCHEDULED APPEARANCE, THE COURT HAS DISCRETION WHETHER TO APPROVE THE PARTY OR WITNESS'S REQUESTED CHANGE IN PARTICIPATION.

(b) A PRO SE DEFENDANT MAY FILE AN ANSWER ELECTRONICALLY THROUGH AN E-FILING SYSTEM. IF EITHER PARTY IS PRO SE, THE PARTY MAY FILE A MOTION OR

OTHER DOCUMENTS, INCLUDING, BUT NOT LIMITED TO, EVIDENCE, ADDITIONAL DOCUMENTATION, OR A MOTION TO WAIVE FILING FEES, ELECTRONICALLY THROUGH AN E-FILING SYSTEM.

(c) (I) THE COURT SHALL NOT ASSESS AN E-FILING OR SERVICE FEE ON A MOTION TO WAIVE FILING FEES. IF A MOTION TO WAIVE FILING FEES IS SUBMITTED, THE COURT MAY REQUEST ADDITIONAL DOCUMENTATION AND THE COURT SHALL GIVE THE PETITIONER AT LEAST TWENTY-FOUR HOURS TO PROVIDE THE REQUESTED DOCUMENTATION TO THE COURT.

(II) THE COURT SHALL NOT ASSESS AN E-FILING FEE, SERVICE FEE, OR ANY OTHER FEE ASSOCIATED WITH THE E-MAIL FILING OF MOTIONS, ANSWERS, OR DOCUMENTS FOR AN INDIGENT PARTY; AND

(d) THE COURT SHALL COMPLY WITH ANY FEDERAL OR STATE LAW OR REGULATION, INCLUDING ANY SUPREME COURT DIRECTIVE OR POLICY, REGARDING THE PROVISION OF ACCOMMODATIONS FOR PEOPLE WITH A DISABILITY OR FOR PEOPLE WITH LIMITED ENGLISH PROFICIENCY DURING ANY PROCEEDING, REGARDLESS OF WHETHER THE PROCEEDING IS CONDUCTED IN PERSON OR REMOTELY BY PHONE OR VIDEO ON A PLATFORM DESIGNATED BY THE COURT.

(2) IN THE EVENT A PARTY IS DISCONNECTED OR THERE IS A TECHNOLOGY FAILURE, THE COURT SHALL MAKE ALL REASONABLE EFFORTS TO CONTACT THE PARTY AND SHALL ALLOW REASONABLE TIME FOR THE PARTY TO REESTABLISH CONNECTION WITH THE COURT. IF THE PARTY IS UNABLE TO REESTABLISH CONNECTION, THE COURT SHALL RESCHEDULE THE HEARING, TO BE HELD IN PERSON, FOR THE FIRST AVAILABLE DATE AFTER THE DATE OF THE ORIGINALLY SCHEDULED HEARING BUT NO LATER THAN ONE WEEK AFTER THE ORIGINALLY SCHEDULED HEARING, TO THE EXTENT PRACTICABLE. THE COURT SHALL NOT ENTER A DEFAULT JUDGMENT IF A PARTY IS UNABLE TO PARTICIPATE REMOTELY DUE TO A TECHNOLOGICAL DISCONNECTION OR FAILURE.

(3) A COURT SHALL NOT CONSTRUE THIS SECTION TO PROVIDE LESS THAN IS REQUIRED BY TITLE II OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AS AMENDED, AND ITS IMPLEMENTING REGULATIONS.

SECTION 3. In Colorado Revised Statutes, 13-40-110, **add** (3) as follows:

13-40-110. Action - how commenced. (3) THE COMPLAINT MUST INCLUDE:

(a) A DESIGNATION OF WHETHER THE PLAINTIFF ELECTS TO PARTICIPATE IN ANY HEARING IN PERSON OR REMOTELY BY PHONE OR VIDEO ON A PLATFORM DESIGNATED BY THE COURT. UPON FILING THE COMPLAINT, THE COURT SHALL PROVIDE THE PLAINTIFF WITH ANY NECESSARY INFORMATION TO FACILITATE THE PLAINTIFF'S PARTICIPATION; AND

(b) A BOX INDICATING IF THE EVICTION IS FOR A RESIDENTIAL OR COMMERCIAL TENANCY.

SECTION 4. In Colorado Revised Statutes, 13-40-111, **amend** (4) and (6) as follows:

13-40-111. Issuance and return of summons. (4) A summons issued pursuant to this section must contain a statement in bold-faced type notifying the defendant that:

(a) Any records associated with the action are suppressed and not accessible to the public until an order is entered granting the plaintiff possession of the premises; ~~and~~

(b) If the plaintiff is granted possession of the premises, the court records may remain private if both parties agree to suppress the records; AND

(c) FOR A RESIDENTIAL ACTION FILED IN COUNTY COURT PURSUANT TO THIS ARTICLE 40, EITHER PARTY HAS A RIGHT TO APPEAR IN PERSON OR REMOTELY BY PHONE OR VIDEO ON A PLATFORM DESIGNATED BY THE COURT. IF A PARTY PARTICIPATES REMOTELY AND THE PARTY IS DISCONNECTED OR THERE IS A TECHNOLOGY FAILURE, THE COURT SHALL MAKE ALL REASONABLE EFFORTS TO CONTACT THE PARTY AND SHALL ALLOW REASONABLE TIME FOR THE PARTY TO REESTABLISH CONNECTION. IF THE PARTY IS UNABLE TO REESTABLISH CONNECTION, THE COURT SHALL RESCHEDULE THE HEARING IN PERSON ON THE FIRST AVAILABLE DATE AFTER THE DATE OF THE ORIGINALLY SCHEDULED HEARING BUT NO LATER THAN ONE WEEK AFTER THE ORIGINALLY SCHEDULED HEARING, TO THE EXTENT PRACTICABLE. THE COURT SHALL NOT ENTER A DEFAULT JUDGMENT IF A PARTY IS UNABLE TO PARTICIPATE REMOTELY DUE TO A TECHNOLOGICAL DISCONNECTION OR FAILURE.

(6) A summons issued pursuant to this section must also contain:

(a) A copy of a blank answer form required pursuant to section 13-40-113. ~~and~~ THE FORM MUST INCLUDE A PLACE FOR THE DEFENDANT TO INDICATE WHETHER THE DEFENDANT WILL PARTICIPATE IN THE EVICTION HEARING IN PERSON OR REMOTELY BY PHONE OR VIDEO ON A PLATFORM DESIGNATED BY THE COURT.

(b) A form that allows either party to request all documents in the landlord's and tenant's possession relevant to the current action; AND

(c) INFORMATION ABOUT HOW A PRO SE PARTY CAN FILE DOCUMENTS RELATED TO THE CASE.

SECTION 5. In Colorado Revised Statutes, 13-40-113, **amend** (4)(a); and **add** (4)(c) as follows:

13-40-113. Answer of defendant - additional and amended pleadings. (4) After an answer is provided to the court pursuant to this section:

(a) The court shall set a date for trial no sooner than seven, but not more than ten, days after the answer is filed, unless the defendant requests a waiver of this requirement in the defendant's answer or after filing an answer; except that a court may extend beyond ten days if either party demonstrates good cause for an

extension, ~~or~~ if the court otherwise finds justification for the extension, OR IF A PARTY PARTICIPATING REMOTELY PURSUANT TO SECTION 13-40-113.5 WAS DISCONNECTED AND UNABLE TO REESTABLISH CONNECTION. The requirement set forth in this subsection (4)(a) does not apply to a forcible entry and detainer petition that alleges a substantial violation, as defined in section 13-40-107.5 (3), or terminates a tenancy pursuant to section 38-12-203 (1)(f).

(c) THE COURT SHALL PROVIDE ANY PARTY WHO OPTED TO PARTICIPATE REMOTELY WITH NECESSARY INFORMATION TO FACILITATE SUCH PARTICIPATION. THE INFORMATION MUST INCLUDE A PHONE NUMBER AND E-MAIL ADDRESS FOR THE COURT AND INSTRUCTIONS ON WHAT TO DO IN THE EVENT REMOTE PARTICIPATION IS DISRUPTED.

SECTION 6. Appropriation. (1) For the 2023-24 state fiscal year, \$418,118 is appropriated to the judicial department. This appropriation consists of \$59,318 from the general fund and \$358,800 from the judicial department information technology cash fund created in section 13-32-114 (1), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$45,978 from the general fund for trial court programs, which amount is based on an assumption that the department will require an additional 0.8 FTE;

(b) \$13,340 from the general fund for capital outlay; and

(c) \$358,800 from the judicial department information technology cash fund for information technology infrastructure.

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

Approved: June 7, 2023