

**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. 23-0223.01 Shelby Ross x4510

HOUSE BILL 23-1186

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A BILL FOR AN ACT

101 **CONCERNING REMOTE PARTICIPATION IN A RESIDENTIAL EVICTION**
102 **FILED IN COUNTY COURT, AND, IN CONNECTION THEREWITH,**
103 **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>.)

For a residential eviction action filed in county court, the bill:

- Requires the court to allow either party or any witness to choose to appear in person or remotely at any return, conference, hearing, trial, or other court proceeding;
- Authorizes a pro se defendant to file an answer

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
2nd Reading Unamended
April 18, 2023

HOUSE
3rd Reading Unamended
March 20, 2023

HOUSE
Amended 2nd Reading
March 17, 2023

electronically by e-mail, or at the court's discretion, through an e-filing system; and authorizes either party, if the party is pro se, to file a motion or other documents electronically by e-mail, or at the court's discretion, through an e-filing system;

- Prohibits the court from assessing an e-filing fee or service fee on a motion to waive filing fees, or from assessing an e-filing fee, service fee, or any other fee associated with the electronic filing or e-mailing of motions, answers, or documents for an indigent party; and
- Requires the court to comply with federal and state law or regulations, including supreme court directive or policy, regarding the provision of accommodation for people with a disability or for people with limited English proficiency.

If a party is appearing remotely and the party is disconnected, the bill requires the court to make all reasonable efforts to contact the party and allow reasonable time for the party to reestablish connection. If the party is unable to reestablish connection, the bill requires the court to reschedule the hearing for the first available in-person 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 bill prohibits the court from entering a default judgment if a party is unable to participate remotely due to a technological disconnection or failure.

The bill requires the complaint to include a designation of whether the plaintiff elects to participate in any hearing in person or remotely, and a box indicating if the eviction is for a residential or commercial tenancy.

The bill requires the summons to include a statement in bold-faced type notifying the defendant that either party has a right to appear in person or remotely, include a place for the defendant to indicate whether the defendant will appear in person or remotely, and provide information for how a pro se party can electronically submit documents related to the case.

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

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

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

1 transportation costs.

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

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

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

13 (e) Ensuring that parties to an eviction proceeding can participate
14 in the legal process is in the best interest of all parties and a responsible
15 use of government resources. A survey of litigants, attorneys, and other
16 court participants on remote participation in court proceedings found that
17 92% of defendants cited reduced travel time, 76% cited taking less time
18 off work, 72% reported reduced costs, and 55% reported increased safety
19 as benefits of remote participation.

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

26 (g) Allowing parties to an eviction proceeding to choose how to
27 appear at a hearing bolsters due process by increasing participation and

1 reducing barriers in access to courts.

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

6 (3) Therefore, the general assembly intends:

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

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

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

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

18 **13-40-113.5. Residential actions in county court - remote**
19 **participation - electronic filing - procedures for technology failure -**
20 **auxiliary services providers.** (1) FOR A RESIDENTIAL ACTION FILED IN
21 COUNTY COURT PURSUANT TO THIS ARTICLE 40:

22 (a) THE COURT SHALL ALLOW EITHER PARTY AND ANY WITNESS TO
23 CHOOSE TO APPEAR IN PERSON OR REMOTELY BY PHONE OR VIDEO ON A
24 PLATFORM DESIGNATED BY THE COURT AT ANY RETURN, CONFERENCE,
25 HEARING, TRIAL, OR OTHER COURT PROCEEDING. EITHER PARTY AND ANY
26 WITNESS MAY ELECT TO CHANGE HOW THE PARTY OR WITNESS INTENDS TO
27 PARTICIPATE BY CONTACTING THE COURT; EXCEPT THAT, IF A PARTY OR

1 WITNESS CONTACTS THE COURT WITHIN FORTY-EIGHT HOURS OF THE
2 SCHEDULED APPEARANCE, THE COURT HAS DISCRETION WHETHER TO
3 APPROVE THE PARTY OR WITNESS'S REQUESTED CHANGE IN PARTICIPATION.

4 (b) A PRO SE DEFENDANT MAY FILE AN ANSWER ELECTRONICALLY
5 THROUGH AN E-FILING SYSTEM. IF EITHER PARTY IS PRO SE, THE PARTY
6 MAY FILE A MOTION OR OTHER DOCUMENTS, INCLUDING, BUT NOT LIMITED
7 TO, EVIDENCE, ADDITIONAL DOCUMENTATION, OR A MOTION TO WAIVE
8 FILING FEES, ELECTRONICALLY THROUGH AN E-FILING SYSTEM.

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

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

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

24 (2) IN THE EVENT A PARTY IS DISCONNECTED OR THERE IS A
25 TECHNOLOGY FAILURE, THE COURT SHALL MAKE ALL REASONABLE
26 EFFORTS TO CONTACT THE PARTY AND SHALL ALLOW REASONABLE TIME
27 FOR THE PARTY TO REESTABLISH CONNECTION WITH THE COURT. IF THE

1 PARTY IS UNABLE TO REESTABLISH CONNECTION, THE COURT SHALL
2 RESCHEDULE THE HEARING, TO BE HELD IN PERSON, FOR THE FIRST
3 AVAILABLE DATE AFTER THE DATE OF THE ORIGINALLY SCHEDULED
4 HEARING BUT NO LATER THAN ONE WEEK AFTER THE ORIGINALLY
5 SCHEDULED HEARING, TO THE EXTENT PRACTICABLE. THE COURT SHALL
6 NOT ENTER A DEFAULT JUDGMENT IF A PARTY IS UNABLE TO PARTICIPATE
7 REMOTELY DUE TO A TECHNOLOGICAL DISCONNECTION OR FAILURE.

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

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

14 **13-40-110. Action - how commenced.** (3) THE COMPLAINT MUST
15 INCLUDE:

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

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

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

26 **13-40-111. Issuance and return of summons.** (4) A summons
27 issued pursuant to this section must contain a statement in bold-faced type

1 notifying the defendant that:

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

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

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

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

23 (a) A copy of a blank answer form required pursuant to section
24 13-40-113. ~~and~~ THE FORM MUST INCLUDE A PLACE FOR THE DEFENDANT
25 TO INDICATE WHETHER THE DEFENDANT WILL PARTICIPATE IN THE
26 EVICTION HEARING IN PERSON OR REMOTELY BY PHONE OR VIDEO ON A
27 PLATFORM DESIGNATED BY THE COURT.

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

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

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

7 **13-40-113. Answer of defendant - additional and amended**
8 **pleadings.** (4) After an answer is provided to the court pursuant to this
9 section:

10 (a) The court shall set a date for trial no sooner than seven, but not
11 more than ten, days after the answer is filed, unless the defendant requests
12 a waiver of this requirement in the defendant's answer or after filing an
13 answer; except that a court may extend beyond ten days if either party
14 demonstrates good cause for an extension, ~~or~~ if the court otherwise finds
15 justification for the extension, OR IF A PARTY PARTICIPATING REMOTELY
16 PURSUANT TO SECTION 13-40-113.5 WAS DISCONNECTED AND UNABLE TO
17 REESTABLISH CONNECTION. The requirement set forth in this subsection
18 (4)(a) does not apply to a forcible entry and detainer petition that alleges
19 a substantial violation, as defined in section 13-40-107.5 (3), or
20 terminates a tenancy pursuant to section 38-12-203 (1)(f).

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

26 **SECTION 6. Appropriation.** (1) For the 2023-24 state fiscal
27 year, \$418,118 is appropriated to the judicial department. This

1 appropriation consists of \$59,318 from the general fund and \$358,800
2 from the judicial department information technology cash fund created in
3 section 13-32-114 (1), C.R.S. To implement this act, the department may
4 use this appropriation as follows:

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

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

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

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