

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 21-0966.02 Jacob Baus x2173

HOUSE BILL 21-1309

HOUSE SPONSORSHIP

Roberts and Carver,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

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

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.

HOUSE
Amended 2nd Reading
June 3, 2021

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.

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.