

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

REENGROSSED

This Version Includes All Amendments
Adopted in the House of Introduction

LLS NO. 23-0362.01 Conrad Imel x2313

SENATE BILL 23-024

SENATE SPONSORSHIP

Kirkmeyer, Bridges, Cutter, Gardner, Liston, Lundeen, Pelton B., Pelton R., Priola, Roberts, Rodriguez, Winter F.

HOUSE SPONSORSHIP

Pugliese,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING PERMITTING A CHALLENGE TO THE CONSTITUTIONALITY**
102 **OF A COURT ORDER IN A CONTEMPT PROCEEDING.**

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 permits a person who is subject to a court order to challenge the constitutionality of the court order in a contempt proceeding alleging the person violated the court order on the grounds that the court order violates the person's rights under the first amendment to the United States constitution.

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
3rd Reading Unamended
March 9, 2023

SENATE
Amended 2nd Reading
March 7, 2023

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) Colorado courts have adopted the collateral bar rule, which
5 prohibits a person from challenging the legality of a court order other than
6 by directly appealing the order;

7 (b) Although there are a number of exceptions to the collateral bar
8 rule, none permit a person to challenge the constitutionality of a court
9 order in a contempt proceeding that alleges that the person violated the
10 court order;

11 (c) Other jurisdictions, including California, recognize the right
12 to challenge the validity of a court order during a contempt proceeding;
13 and

14 (d) Colorado has an interest in permitting people to challenge
15 court orders that infringe on their first amendment rights.

16 (2) Therefore, the general assembly intends to create an exception
17 to the collateral bar rule that allows a person subject to a court order to
18 collaterally attack the constitutionality of that court order in a contempt
19 proceeding.

20 **SECTION 2.** In Colorado Revised Statutes, **add** 13-20-1102 as
21 follows:

22 **13-20-1102. First amendment challenge to underlying court**
23 **order in contempt proceeding.** (1) NOTWITHSTANDING ANY OTHER
24 PERMITTED LEGAL CHALLENGE, A PERSON WHO IS SUBJECT TO A COURT
25 ORDER ISSUED IN A DEPENDENCY AND NEGLECT PROCEEDING PURSUANT
26 TO ARTICLE 3 OF TITLE 19 MAY, IN A CONTEMPT PROCEEDING ALLEGING

1 THE PERSON VIOLATED THE COURT ORDER, INCLUDING IN AN APPEAL OF A
2 CONTEMPT JUDGMENT, CHALLENGE THE CONSTITUTIONALITY OF THE
3 COURT ORDER ON THE GROUNDS THAT THE COURT ORDER VIOLATES THE
4 PERSON'S RIGHTS UNDER THE FIRST AMENDMENT TO THE UNITED STATES
5 CONSTITUTION.

6 (2) A JUDGMENT OF CONTEMPT FOR VIOLATING A COURT ORDER
7 ISSUED IN A DEPENDENCY AND NEGLECT PROCEEDING THAT REGULATES A
8 PERSON'S SPEECH IS A FINAL AND APPEALABLE JUDGMENT. COURT RULES
9 GOVERNING APPEALS FROM PROCEEDINGS IN DEPENDENCY OR NEGLECT
10 APPLY TO THE APPEAL OF THE CONTEMPT JUDGMENT.

11 (3) THE OFFICE OF THE RESPONDENT PARENTS' COUNSEL
12 ESTABLISHED IN SECTION 13-92-103 MAY PROVIDE REPRESENTATION TO
13 INDIGENT PARENTS IN A CONTEMPT PROCEEDING FOR VIOLATING A COURT
14 ORDER ISSUED IN A DEPENDENCY AND NEGLECT PROCEEDING THAT
15 REGULATES A PERSON'S SPEECH, INCLUDING AN APPEAL OF A CONTEMPT
16 JUDGMENT.

17 **SECTION 3. Applicability.** This act applies to court orders
18 issued on, before, or after the effective date of this act.

19 **SECTION 4. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly; except
22 that, if a referendum petition is filed pursuant to section 1 (3) of article V
23 of the state constitution against this act or an item, section, or part of this
24 act within such period, then the act, item, section, or part will not take
25 effect unless approved by the people at the general election to be held in
26 November 2024 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.