

CHAPTER 352

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 25-1275

BY REPRESENTATIVE(S) Soper and Zokaie, Bacon, Bird, Boesenecker, Brown, Camacho, Carter, Clifford, Espenoza, Froelich, Garcia, Hamrick, Jackson, Joseph, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Marshall, Paschal, Ricks, Rutinel, Sirota, Stewart K., Stewart R., Story, Titone, Valdez, McCluskie;
also SENATOR(S) Weissman and Frizell, Amabile, Baisley, Ball, Carson, Cutter, Daugherty, Exum, Gonzales J., Jodeh, Kipp, Kirkmeyer, Liston, Marchman, Mullica, Pelton B., Pelton R., Roberts, Snyder, Sullivan, Wallace, Coleman.

AN ACT

CONCERNING MISCONDUCT BY CRIME LABORATORY EMPLOYEES, AND, IN CONNECTION THEREWITH,REQUIRING A CRIME LABORATORY EMPLOYEE TO REPORT MISCONDUCT,REQUIRING NOTIFYING CRIMINAL DEFENDANTS AND VICTIMS OF MISCONDUCT, CREATING A PROCESS FOR A PERSON TO SEEK POST-CONVICTION RELIEF BASED ON A CLAIM OF MISCONDUCT BY A CRIME LABORATORY EMPLOYEE, AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** part 3 to article 12 of title 16 as follows:

PART 3
COLORADO FORENSIC SCIENCE INTEGRITY ACT

16-12-301. Short title. THE SHORT TITLE OF THIS PART 3 IS THE "COLORADO FORENSIC SCIENCE INTEGRITY ACT".

16-12-302. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

- (a) AN EFFECTIVE CRIMINAL JUSTICE SYSTEM REQUIRES THAT CRIME LABORATORY EMPLOYEES ACT WITH INTEGRITY, AND THAT CRIME LABORATORIES HAVE CONTROLS TO PREVENT AND DETECT KNOWING MISCONDUCT AND VIOLATIONS OF PROCEDURES AND PROPERLY INVESTIGATE AND REPORT MISCONDUCT WHEN IT OCCURS;
- (b) PROSECUTORS, DEFENDANTS, AND VICTIMS DESERVE TRANSPARENCY AND TO

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.

BE NOTIFIED OF MISCONDUCT BY CRIME LABORATORY EMPLOYEES WHO HANDLE EVIDENCE USED IN CRIMINAL CASES;

(c) THE CRIMINAL JUSTICE SYSTEM MUST PROVIDE AN OPPORTUNITY TO TIMELY AND FAIRLY LITIGATE CASES IN WHICH THERE WAS MISCONDUCT BY A CRIME LABORATORY EMPLOYEE THAT COULD AFFECT, OR DID AFFECT, THE OUTCOME OF A CASE; AND

(d) DEFENDANTS MUST BE AFFORDED THE RIGHT TO COUNSEL, THE RIGHT TO FULL DISCLOSURE OF THE MISCONDUCT, AND THE RIGHT TO AN EVIDENTIARY HEARING IN ORDER TO ADEQUATELY ADDRESS THE IMPACT OF MISCONDUCT BY CRIME LABORATORY EMPLOYEES.

(2) THE GENERAL ASSEMBLY INTENDS THAT THIS PART 3 BE INTERPRETED TO ACCOMPLISH THE POLICIES DECLARED IN THIS SECTION.

16-12-303. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CRIME LABORATORY" MEANS A FORENSIC SERVICES PROVIDER IN COLORADO THAT ASSISTS LAW ENFORCEMENT AGENCIES OR PROSECUTORS BY PERFORMING SCIENTIFIC LABORATORY TESTING OR EXAMINATION OF PHYSICAL EVIDENCE. "CRIME LABORATORY" DOES NOT INCLUDE A LABORATORY OPERATED BY A COUNTY CORONER'S OFFICE.

(2) "CRIME LABORATORY DIRECTOR" OR "DIRECTOR" MEANS THE SENIOR POSITION OF A CRIME LABORATORY AS DEFINED IN THE CRIME LABORATORY'S POLICY.

(3) "CRIME LABORATORY EMPLOYEE" OR "EMPLOYEE" MEANS A PERSON WHO WORKS OR HAS WORKED IN A CRIME LABORATORY, INCLUDING CRIME LABORATORY CONTRACT WORKERS.

(4) "FINAL REPORT" MEANS THE FINAL REPORT PREPARED BY A CRIME LABORATORY DIRECTOR FOLLOWING AN INVESTIGATION OF ALLEGED WRONGFUL ACTION, DESCRIBED IN SECTION 16-12-305 (4)(c).

(5) "FORENSIC SERVICES PROVIDER" MEANS A UNIT OR SECTION OF A LAW ENFORCEMENT AGENCY THAT HOLDS AN ISO/IEC 17025 FORENSIC LABORATORY ACCREDITATION OR THAT PERFORMS WORK EQUIVALENT TO THAT OF AN ACCREDITED FORENSIC SERVICES PROVIDER WITHOUT BEING ACCREDITED.

(6) "KNOWING MISCONDUCT" MEANS A VOLUNTARY ACT OR OMISSION OR SERIES OF ACTS OR OMISSIONS CONSCIOUSLY PERFORMED BY A CRIME LABORATORY EMPLOYEE AS A RESULT OF EFFORT OR DETERMINATION IN WHICH THE EMPLOYEE IS AWARE THAT THE EMPLOYEE'S CONDUCT IS IMPROPER OR DECEPTIVE, AND WHICH ACT OR OMISSION OR SERIES OF ACTS OR OMISSIONS INVOLVE:

(a) THE MISHANDLING OF PHYSICAL EVIDENCE OR DATA ELEMENTS OR RESULTS;

(b) INCORRECTLY PERFORMING FORENSIC TESTING;

- (c) PRESENTING MISLEADING OR FALSE RESULTS;
- (d) CONCEALING MATERIAL INFORMATION; OR
- (e) PRESENTING FALSE SWORN TESTIMONY ABOUT THE EVIDENCE.

(7) "SIGNIFICANT EVENT" MEANS AN ACT OR OMISSION BY A CRIME LABORATORY EMPLOYEE THAT IS A GROSS DEVIATION FROM THE LABORATORY STANDARD OPERATION PROCEDURES OR ACCREDITATION REQUIREMENTS OF THE CRIME LABORATORY, OR REQUIREMENTS IN LAW THAT WERE APPLICABLE AT THE TIME OF THE ACT OR OMISSION OF THE CRIME LABORATORY EMPLOYEE, THAT COULD SUBSTANTIALLY NEGATIVELY AFFECT THE INTEGRITY OF THE CRIME LABORATORY ACTIVITIES.

(8) "WRONGFUL ACTION" MEANS KNOWING MISCONDUCT OR A SIGNIFICANT EVENT.

16-12-304. Duty of a crime laboratory employee to report misconduct. (1) A CRIME LABORATORY EMPLOYEE WHO, IN PURSUANCE OF THEIR WORK OR IN THE COURSE OF AN INVESTIGATION, WITNESSES OR DISCOVERS WRONGFUL ACTION MUST REPORT THAT WRONGFUL ACTION TO THEIR IMMEDIATE SUPERVISOR AT THE CRIME LABORATORY OR TO THE CRIME LABORATORY DIRECTOR WITHIN SEVEN DAYS AFTER WITNESSING OR DISCOVERING THE WRONGFUL ACTION. A CRIME LABORATORY SUPERVISOR WHO RECEIVES A REPORT SHALL NOTIFY THE CRIME LABORATORY DIRECTOR WITHIN SEVENTY-TWO HOURS AFTER RECEIVING THE REPORT.

(2) A REPORT REQUIRED BY THIS SECTION MUST BE MADE IN WRITING AND INCLUDE A DESCRIPTION OF THE WRONGFUL ACTION; THE DATE, TIME, AND LOCATION THAT THE WRONGFUL ACTION WAS SEEN OR DISCOVERED; THE PEOPLE PRESENT AT THE TIME; AND, IF KNOWN, ANY IDENTIFYING NUMBERS OR CASE NUMBERS THAT RELATE TO THE WRONGFUL ACTION.

(3) EACH CRIME LABORATORY SHALL DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES FOR REPORTING WRONGFUL ACTIONS IN ACCORDANCE WITH THIS SECTION. THE POLICIES AND PROCEDURES MUST IDENTIFY THE CRIME LABORATORY DIRECTOR WHO RECEIVES REPORTS OF WRONGFUL ACTIONS.

16-12-305. Duty of crime laboratory to investigate wrongful action - report to prosecuting attorney - record retention. (1) A CRIME LABORATORY DIRECTOR WHO, ON OR AFTER JULY 1, 2025, RECEIVES A REPORT OF WRONGFUL ACTION PURSUANT TO SECTION 16-12-304 OR RECEIVES OTHER INFORMATION ABOUT AN ACT OR OMISSION BY A CRIME LABORATORY EMPLOYEE THAT MAY CONSTITUTE WRONGFUL ACTION SHALL FORTHWITH INVESTIGATE THE CRIME LABORATORY EMPLOYEE'S ACTIONS.

(2) A CRIME LABORATORY DIRECTOR'S INVESTIGATION OF WRONGFUL ACTION CONDUCTED PURSUANT TO THIS SECTION MUST INCLUDE, BUT IS NOT LIMITED TO:

(a) A REVIEW AND ANALYSIS OF ALL DATA, REPORTS, AND DOCUMENTS RELEVANT TO THE ALLEGED OR ACTUAL WRONGFUL ACTION;

(b) TAKING STATEMENTS FROM ALL RELEVANT WITNESSES;

(c) AN ASSESSMENT OF THE EMPLOYEE'S COMPLIANCE WITH ALL STANDARDS AND POLICIES OF THE CRIME LABORATORY RELEVANT TO THE ACTIONS DESCRIBED IN THE REPORT OF WRONGFUL ACTION;

(d) AN ASSESSMENT OF THE LABORATORY'S COMPLIANCE WITH ANY LABORATORY ACCREDITATION, CERTIFICATION, OR LICENSURE REQUIREMENTS RELEVANT TO THE ACTIONS DESCRIBED IN THE REPORT OF WRONGFUL ACTION;

(e) A DETERMINATION OF WHETHER WRONGFUL ACTION OCCURRED; AND

(f) IDENTIFYING AND COMPILING A LIST OF ALL CASES THAT THE CRIME LABORATORY EMPLOYEE WORKED ON IN AN OFFICIAL CAPACITY AT THE CRIME LABORATORY. THE INVESTIGATION NEED NOT INCLUDE A REVIEW OF THE CASE WORK ON ANY CASE INCLUDED ON THE LIST UNLESS THE CRIME LABORATORY DIRECTOR DETERMINES THAT A REVIEW IS WARRANTED.

(3)(a) WHEN AN INVESTIGATION IS OF ALLEGED WRONGFUL ACTION IN A PENDING CASE, THE CRIME LABORATORY DIRECTOR SHALL, WITHIN SEVEN DAYS OF BEGINNING THE INVESTIGATION, NOTIFY THE DISTRICT ATTORNEY WITH JURISDICTION OVER EACH PENDING CRIMINAL CASE THAT IS SUBJECT TO THE INVESTIGATION ABOUT THE INVESTIGATION.

(b) THE NOTICE TO THE DISTRICT ATTORNEY MUST INCLUDE:

(I) THE NAME OF THE CRIME LABORATORY EMPLOYEE;

(II) THE NATURE OF THE ALLEGATION; AND

(III) A LIST OF THE CASES IDENTIFIED IN THE INITIAL INVESTIGATION PURSUANT TO SUBSECTION (1) OF THIS SECTION IN WHICH THERE IS AN ALLEGED WRONGFUL ACTION OR THAT ARE BEING REVIEWED AS PART OF INVESTIGATION INTO THE ALLEGED WRONGFUL ACTION.

(4)(a) WITHIN NINETY-ONE DAYS OF THE REPORT OF WRONGFUL ACTION TO THE CRIME LABORATORY DIRECTOR, THE DIRECTOR SHALL COMPLETE THE INVESTIGATION OF A WRONGFUL ACTION AND DETERMINE WHETHER WRONGFUL ACTION OCCURRED IN A CASE IDENTIFIED IN THE INITIAL INVESTIGATION NOTICE TO THE DISTRICT ATTORNEY MADE PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION.

(b)(I) IF THE INVESTIGATION CANNOT BE COMPLETED WITHIN NINETY-ONE DAYS, THE CRIME LABORATORY DIRECTOR SHALL PROVIDE NOTICE OF THE INVESTIGATION TO EACH DISTRICT ATTORNEY WHO HAS JURISDICTION OVER ANY CASE THE CRIME LABORATORY EMPLOYEE WORKED ON IN AN OFFICIAL CAPACITY, INCLUDING CASES SUBJECT TO THE NOTICE REQUIRED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION.

(II) THE NOTICE TO THE DISTRICT ATTORNEY ABOUT AN ONGOING INVESTIGATION MADE PURSUANT TO SUBSECTION (4)(b)(I) OF THIS SECTION MUST INCLUDE:

(A) THE NAME OF THE CRIME LABORATORY EMPLOYEE;

(B) THE NATURE OF THE ALLEGATION;

(C) A WRITTEN UPDATE THAT ADDRESSES THE STATE OF THE INVESTIGATION, THE REASON FOR THE DELAY, AND THE ANTICIPATED TIMELINE FOR COMPLETING THE INVESTIGATION; AND

(D) THE LIST OF CASES DESCRIBED IN SUBSECTION (2)(f) OF THIS SECTION.

(III) AFTER NOTIFYING A DISTRICT ATTORNEY ABOUT AN ONGOING INVESTIGATION PURSUANT TO SUBSECTION (4)(b)(I) OF THIS SECTION, THE CRIME LABORATORY DIRECTOR SHALL PROVIDE WRITTEN UPDATES ABOUT THE STATUS OF THE INVESTIGATION TO THE DISTRICT ATTORNEY AT LEAST EVERY THIRTY-FIVE DAYS THEREAFTER UNTIL THE INVESTIGATION IS COMPLETE.

(c) AT THE CONCLUSION OF THE INVESTIGATION, THE CRIME LABORATORY DIRECTOR SHALL PREPARE A WRITTEN FINAL REPORT DESCRIBING THE INVESTIGATION AND DETERMINATIONS ON THE CASES IN WHICH THERE IS AN ALLEGED WRONGFUL ACTION BY A CRIME LABORATORY EMPLOYEE. IF THE INVESTIGATION DETERMINES THAT THE CRIME LABORATORY EMPLOYEE ENGAGED IN WRONGFUL ACTION, THE FINAL REPORT MUST INCLUDE THE LIST OF CASES DESCRIBED IN SUBSECTION (2)(f) OF THIS SECTION AND THE RELEASE OF THE FINAL REPORT IS GOVERNED BY SECTION 24-72-303 (4)(a.5).

(5) (a) IF THE INVESTIGATION DETERMINES THAT THE CRIME LABORATORY EMPLOYEE DID NOT ENGAGE IN WRONGFUL ACTION, NO FURTHER ACTION IS REQUIRED BY THE CRIME LABORATORY DIRECTOR; EXCEPT THAT:

(I) THE DIRECTOR SHALL DELIVER FORTHWITH THE FINAL REPORT OF THE INVESTIGATION TO EACH DISTRICT ATTORNEY WHO RECEIVED A NOTICE OF THE INVESTIGATION PURSUANT TO SUBSECTIONS (3) AND (4) OF THIS SECTION; AND

(II) THE DIRECTOR SHALL DELIVER FORTHWITH THE FINAL REPORT OF THE INVESTIGATION TO EACH DISTRICT ATTORNEY WITH JURISDICTION OVER ANY CASE THAT WAS SUBJECT TO INVESTIGATION PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(b) IF THE INVESTIGATION DETERMINES THAT THE CRIME LABORATORY EMPLOYEE ENGAGED IN WRONGFUL ACTION, THE CRIME LABORATORY DIRECTOR SHALL:

(I) DELIVER FORTHWITH THE FINAL REPORT OF THE INVESTIGATION, WHICH INCLUDES THE LIST OF CASES DESCRIBED IN SUBSECTION (2)(f) OF THIS SECTION, TO EACH DISTRICT ATTORNEY WHO HAS JURISDICTION OVER ANY CASE THAT THE CRIME LABORATORY EMPLOYEE WORKED ON IN AN OFFICIAL CAPACITY; AND

(II) PROVIDE THE DISTRICT ATTORNEY ALL MATERIALS DISCOVERABLE BY THE DEFENDANT PURSUANT TO SECTION 16-12-309 ON A TIMELY AND ONGOING BASIS THROUGH THE CONCLUSION OF POST-CONVICTION PROCEEDINGS. THE DIRECTOR SHALL RESPOND TO ANY REQUESTS FOR DISCOVERABLE MATERIAL FROM THE DISTRICT ATTORNEY BY PROVIDING THE REQUESTED MATERIALS OR BY RESPONDING

IN WRITING WITHIN TWENTY-FOUR DAYS AFTER RECEIVING THE REQUEST THAT THE REQUESTED MATERIALS DO NOT EXIST.

(6) A CRIME LABORATORY MUST ADOPT POLICIES AND PROCEDURES GOVERNING:

(a) PROCEDURES NEEDED TO COMPLY WITH THE MANDATES OF THIS ARTICLE 12;
AND

(b) THE PRESERVATION OF RECORDS RELATED TO WRONGFUL ACTION REPORTS RECEIVED BY THE CRIME LABORATORY DIRECTOR AND THE DIRECTOR'S INVESTIGATION AND INVESTIGATORY REPORTS. THE POLICIES MUST REQUIRE THAT ALL RECORDS ARE PRESERVED AT LEAST THROUGH THE FINAL RESOLUTION OF LITIGATION OR POTENTIAL LITIGATION IN ALL AFFECTED CASES AND ANY RELATED CIVIL CASES.

(7) IF AN INVESTIGATION CONCERNING WRONGFUL ACTION BY A CRIME LABORATORY OCCURRED AFTER JULY 1, 2014, AND BEFORE JULY 1, 2025, AND THE INVESTIGATION RESULTED IN CRIMINAL ALLEGATIONS FILED AGAINST THE CRIME LABORATORY EMPLOYEE OR A SUSTAINED INTERNAL AFFAIRS ACTION BY THE DEPARTMENT SUPERVISING THE CRIME LABORATORY EMPLOYEE, THE CRIME LABORATORY DIRECTOR SHALL, AS SOON AS PRACTICABLE BUT NO LATER THAN SEPTEMBER 1, 2025, PREPARE A FINAL REPORT, AS DESCRIBED IN SUBSECTION (4)(c) OF THIS SECTION, AND PROVIDE THE REPORT TO ALL DISTRICT ATTORNEYS WITH JURISDICTION OVER ANY CRIMINAL CASE THAT IS IDENTIFIED IN THE FINAL REPORT THAT IS PENDING OR HAS RESULTED IN A CONVICTION IN THAT JURISDICTION. THE REPORT MUST INCLUDE THE LIST OF CASES REQUIRED IN SUBSECTION (2)(f) OF THIS SECTION.

(8) ALL RECORDS RELATED TO AN INVESTIGATION, INCLUDING NOTICES AND REPORTS, ARE CRIMINAL JUSTICE RECORDS AS DEFINED IN SECTION 24-72-302. EXCEPT AS PROVIDED IN THIS SECTION, RELEASE OF THE RECORDS IS GOVERNED BY PART 3 OF ARTICLE 72 OF TITLE 24.

16-12-306. Prosecution duty to notify defendants and defendant's counsel - content of notice. (1) A DISTRICT ATTORNEY WHO RECEIVES A NOTICE FROM A CRIME LABORATORY DIRECTOR PURSUANT TO SECTION 16-12-305 (3)(a) THAT AN INVESTIGATION OF WRONGFUL ACTION WAS INITIATED SHALL NOTIFY THE DEFENDANT IN THE CASE THAT IS SUBJECT TO THE INVESTIGATION AS SOON AS PRACTICABLE BUT NO LATER THAN NINETY-ONE DAYS AFTER RECEIVING THE NOTICE OF THE INITIATION OF THE INVESTIGATION, UNLESS COURT RULES, COURT ORDER, OR LAW REQUIRES AN EARLIER DEADLINE FOR DISCLOSURE.

(2) (a) A DISTRICT ATTORNEY WHO RECEIVES A FINAL REPORT OF AN INVESTIGATION PURSUANT TO SECTION 16-12-305 (5)(b) OR (7) THAT DETERMINES THAT A CRIME LABORATORY EMPLOYEE ENGAGED IN WRONGFUL ACTION IN A CASE SHALL NOTIFY THE DEFENDANT IN THAT CASE, AND EACH DEFENDANT WHOSE CASE WAS REVIEWED AS PART OF THE INVESTIGATION, OF THE DETERMINATION OF WRONGFUL ACTION IN THE CASE THAT IS SUBJECT TO THE INVESTIGATION AS SOON AS PRACTICABLE BUT NO LATER THAN NINETY-ONE DAYS AFTER THE RECEIPT OF THE FINAL REPORT.

(b) THE DISTRICT ATTORNEY SHALL ALSO NOTIFY EACH DEFENDANT IN A CASE IDENTIFIED BY THE CRIME LABORATORY DIRECTOR IN THE LIST OF CASES DESCRIBED IN SECTION 16-12-305 (2)(f) THAT WAS PROVIDED TO THE DISTRICT ATTORNEY BUT ONLY IF THE DEFENDANT'S CRIMINAL CASE IS PENDING OR RESULTED IN A CONVICTION IN THAT JURISDICTION. THE DISTRICT ATTORNEY SHALL NOTIFY THE DEFENDANT AS SOON AS PRACTICABLE BUT NO LATER THAN NINETY-ONE DAYS AFTER RECEIPT OF THE FINAL REPORT.

(3) IF A CRIME LABORATORY DIRECTOR'S INVESTIGATION INITIATED PURSUANT TO SECTION 16-12-305(1) IS NOT COMPLETED WITHIN ONE HUNDRED TWENTY-SIX DAYS, THE DISTRICT ATTORNEY SHALL NOTIFY THE DEFENDANTS IDENTIFIED BY THE CRIME LABORATORY IN THE LIST OF CASES DESCRIBED IN SECTION 16-12-305 (2)(f) THAT WAS PROVIDED TO THE DISTRICT ATTORNEY OF THE INVESTIGATION OF THE WRONGFUL ACTION BUT ONLY WHEN THE CRIMINAL CASE IS PENDING OR RESULTED IN A CRIMINAL CONVICTION. THE DISTRICT ATTORNEY SHALL NOTIFY THE DEFENDANTS PURSUANT TO THIS SUBSECTION (3) AS SOON AS PRACTICABLE. THE NOTICE OF AN INCOMPLETE INVESTIGATION DESCRIBED IN THIS SUBSECTION (3) IS IN ADDITION TO THE NOTICE OF A FINAL REPORT REQUIRED IN SUBSECTION (2) OF THIS SECTION.

(4) IN ADDITION TO THE INFORMATION REQUIRED IN A NOTICE PURSUANT TO THIS SUBSECTION (4), THE NOTICE TO THE DEFENDANT MADE PURSUANT TO SUBSECTION (2) OF THIS SECTION MUST STATE THAT THERE IS A FINAL REPORT OF WRONGFUL ACTION BY A CRIME LABORATORY EMPLOYEE INVOLVED IN THE DEFENDANT'S CASE. THE NOTICE MADE TO A DEFENDANT PURSUANT TO THIS SECTION MUST INCLUDE:

(a) THE NAME OF THE CRIME LABORATORY EMPLOYEE AND THE NAME OF THE CRIME LABORATORY OR AGENCY THAT OPERATES THE CRIME LABORATORY;

(b) THE DEFENDANT'S CASE NUMBER AND COURT THAT HAS JURISDICTION OVER THE CASE;

(c) A STATEMENT THAT THE DEFENDANT HAS:

(I) A TIME-LIMITED RIGHT TO MAKE A POST-CONVICTION CLAIM PURSUANT TO THE "COLORADO FORENSIC SCIENCE INTEGRITY ACT" AND AN APPROPRIATE CITATION TO THE "COLORADO FORENSIC SCIENCE INTEGRITY ACT";

(II) A RIGHT TO COUNSEL TO INVESTIGATE, FILE, AND LITIGATE POST-CONVICTION CLAIMS PURSUANT TO THE "COLORADO FORENSIC SCIENCE INTEGRITY ACT";

(III) A RIGHT TO HIRE THEIR OWN COUNSEL, AND IF THE DEFENDANT CANNOT AFFORD COUNSEL, THE RIGHT TO COURT-APPOINTED COUNSEL;

(d) INFORMATION ABOUT HOW TO CONTACT THE OFFICE OF STATE PUBLIC DEFENDER OR THE COURT TO REQUEST THAT COUNSEL BE APPOINTED; AND

(e) INFORMATION ABOUT HOW TO CONTACT THE DISTRICT ATTORNEY'S OFFICE TO DETERMINE THE STATUS OF THE INVESTIGATION, IF THE DEFENDANT IS PROCEEDING WITHOUT COUNSEL.

(5) (a) IF THE DEFENDANT'S CRIMINAL CASE IS A PENDING CASE FOR WHICH NO CONVICTION HAS BEEN ENTERED, IS ON APPEAL STATUS, OR HAS HAD POST-CONVICTION MOTIONS FILED THAT ARE PENDING, THE DISTRICT ATTORNEY SHALL IMMEDIATELY NOTIFY THE DEFENDANT AND THE DEFENDANT'S COUNSEL THROUGH DISCOVERY IN THE CASE.

(b) IF THE DEFENDANT WAS CONVICTED IN THE CASE AND THERE IS NOT A PENDING APPEAL AND THERE ARE NO PENDING POST-CONVICTION MOTIONS IN THE CASE AND:

(I) THE DEFENDANT IS IN CUSTODY IN JAIL OR A CORRECTIONAL FACILITY, THE DISTRICT ATTORNEY SHALL NOTIFY THE DEFENDANT VIA REGULAR MAIL AT THE DEFENDANT'S PLACE OF INCARCERATION AND NOTIFY THE OFFICE OF THE PUBLIC DEFENDER BY EMAIL AT THE EMAIL ADDRESS DESCRIBED IN SUBSECTION (5)(c) OF THIS SECTION; OR

(II) THE DEFENDANT IS NOT IN CUSTODY IN JAIL OR A CORRECTIONAL FACILITY, THE DISTRICT ATTORNEY SHALL NOTIFY THE DEFENDANT, BY PERSONAL SERVICE OR REGISTERED MAIL, AT THE DEFENDANT'S LAST-KNOWN ADDRESS AND THE ADDRESS OF THE DEFENDANT'S LAST-KNOWN COUNSEL OR IF THE DEFENDANT'S LAST-KNOWN COUNSEL WAS THE PUBLIC DEFENDER, NOTIFY THE OFFICE OF PUBLIC DEFENDER BY EMAIL AT THE EMAIL ADDRESS DESCRIBED IN SUBSECTION (5)(c) OF THIS SECTION.

(c) THE STATE PUBLIC DEFENDER SHALL DESIGNATE AN EMAIL ADDRESS TO RECEIVE NOTICES PURSUANT TO THIS SECTION AND SHALL PROVIDE THE EMAIL ADDRESS TO EACH DISTRICT ATTORNEY AND THE COLORADO DISTRICT ATTORNEYS' COUNCIL.

16-12-307. Duty to notify victims. (1) WHEN A DISTRICT ATTORNEY RECEIVES A NOTICE THAT A CRIME LABORATORY EMPLOYEE ENGAGED IN WRONGFUL ACTION AND A CRIMINAL CASE IDENTIFIED IN THE NOTICE INVOLVES A CRIME LISTED IN SECTION 24-4.1-302 (1), THE DISTRICT ATTORNEY SHALL, AS REQUIRED IN SUBSECTION (2) OF THIS SECTION, NOTIFY EACH VICTIM OF THE CRIME ABOUT THE INVESTIGATION AND THE NATURE OF THE ALLEGED WRONGFUL ACTION.

(2) THE DISTRICT ATTORNEY SHALL NOTIFY A VICTIM PURSUANT TO THIS SECTION BY PERSONAL SERVICE OR REGISTERED MAIL AT THE VICTIM'S LAST-KNOWN ADDRESS. THE DISTRICT ATTORNEY SHALL NOTIFY VICTIMS PURSUANT TO THIS SECTION IN CASES IN WHICH CHARGES HAVE BEEN FILED AGAINST THE DEFENDANT BUT A CRIMINAL TRIAL HAS NOT BEGUN. THE DISTRICT ATTORNEY SHALL NOTIFY THE VICTIM AS SOON AS PRACTICABLE BUT NOT LATER THAN NINETY-ONE DAYS AFTER THE DISTRICT ATTORNEY RECEIVED THE NOTICE FROM THE CRIME LABORATORY DIRECTOR OR PRIOR TO THE START OF THE TRIAL IF TRIAL STARTS BEFORE THE NINETY-ONE DAYS ENDS.

16-12-308. Defendant's right to counsel. (1) A DEFENDANT HAS THE RIGHT TO COUNSEL TO INVESTIGATE, FILE, AND LITIGATE A POST-CONVICTION CLAIM ARISING FROM WRONGFUL ACTION AND APPEALS ARISING FROM THE CLAIM. THE RIGHT TO COUNSEL FOR ASSISTANCE WITH POST-CONVICTION CLAIMS PURSUANT TO THIS PART 3, INCLUDING THE RIGHT FOR AN INDIGENT PERSON TO HAVE THE ASSISTANCE OF COURT-APPOINTED COUNSEL, ATTACHES WHEN A DEFENDANT RECEIVES A NOTICE PURSUANT TO SECTION 16-12-306 OR MAKES A SHOWING THAT A CRIME

LABORATORY EMPLOYEE WORKED ON THEIR CASE AND IS THE SUBJECT OF AN INVESTIGATION OF WRONGFUL ACTION. A DEFENDANT IS NOT REQUIRED TO FILE A PETITION FOR POST-CONVICTION RELIEF TO RECEIVE COURT-APPOINTED COUNSEL.

(2)(a) A DEFENDANT MAY REQUEST COUNSEL BY FILING A WRITTEN REQUEST FOR COUNSEL WITH THE COURT AND ATTACHING A COPY OF THE NOTICE RECEIVED PURSUANT TO SECTION 16-12-306 OR A PLEADING THAT NAMES A CRIME LABORATORY EMPLOYEE AND PROVIDES SUFFICIENT INFORMATION FOR THE COURT TO FIND THAT THE CRIME LABORATORY IS THE SUBJECT OF AN INVESTIGATION OF WRONGFUL ACTION.

(b) IF A DEFENDANT FILES A PLEADING IN COURT WITHOUT COUNSEL, THE COURT SHALL DETERMINE IF THE DEFENDANT IS REQUESTING THE APPOINTMENT OF COUNSEL OR IF THE DEFENDANT IS KNOWINGLY AND VOLUNTARILY WAIVING THEIR RIGHT TO COUNSEL.

(3) A PUBLIC DEFENDER WHO HAS RECEIVED A REQUEST FOR ASSISTANCE FROM A DEFENDANT WHO RECEIVED A NOTICE PURSUANT TO SECTION 16-12-306, OR FROM A DEFENDANT WHO CAN MAKE A SHOWING THAT A CRIME LABORATORY EMPLOYEE WHO WORKED ON THEIR CASE IS THE SUBJECT OF AN INVESTIGATION OF WRONGFUL ACTION, MAY REQUEST APPOINTMENT BY THE COURT IF THE DEFENDANT QUALIFIES FOR REPRESENTATION BY COURT-APPOINTED COUNSEL.

(4) UPON RECEIVING A REQUEST TO APPOINT COUNSEL FOR A DEFENDANT MADE PURSUANT TO THIS SECTION, THE COURT SHALL, IN ACCORDANCE WITH SECTION 21-1-103, APPOINT THE PUBLIC DEFENDER TO REPRESENT THE DEFENDANT IN A POST-CONVICTION MATTER RELATED TO THE WRONGFUL ACTION. IF THE PUBLIC DEFENDER NOTIFIES THE COURT OF A CONFLICT OF INTEREST, THE COURT SHALL APPOINT THE OFFICE OF ALTERNATE DEFENSE COUNSEL TO REPRESENT THE DEFENDANT.

16-12-309. Discovery and expert witness disclosure - procedures - construction consistent with court rules. (1) (a) A DEFENDANT HAS A RIGHT TO DISCOVERY, INCLUDING POST-CONVICTION DISCOVERY, RELATED TO THE WRONGFUL ACTION:

(I) UPON RECEIPT OF A NOTICE OF REPORTED WRONGFUL ACTION DESCRIBED IN SECTION 16-12-306; OR

(II) IF A COURT ORDERS DISCOVERY AFTER THE DEFENDANT FILES A PLEADING THAT NAMES A CRIME LABORATORY EMPLOYEE WHO WORKED ON THE DEFENDANT'S CASE WHO IS THE SUBJECT OF AN INVESTIGATION OF WRONGFUL ACTION.

(b) A DEFENDANT MAY REQUEST DISCOVERY BY MAKING A WRITTEN REQUEST TO THE DISTRICT ATTORNEY OR FILING A MOTION WITH THE COURT.

(c) UPON RECEIVING A VALID DISCOVERY REQUEST OR A COURT ORDER TO PROVIDE DISCOVERY, THE DISTRICT ATTORNEY SHALL PROVIDE DISCOVERY TO THE DEFENDANT PURSUANT TO THIS SECTION AS SOON AS PRACTICABLE AND ON AN ONGOING BASIS THROUGH THE CONCLUSION OF POST-CONVICTION PROCEEDINGS. THE DISTRICT ATTORNEY SHALL REQUEST, PURSUANT TO SECTION 16-12-305 (5)(b)(II),

DISCOVERABLE MATERIAL FROM A CRIME LABORATORY THAT MAY BE IN THE POSSESSION OF THE CRIME LABORATORY BUT HAS NOT BEEN PROVIDED TO THE DISTRICT ATTORNEY.

(2) WHEN DISCOVERY IS REQUIRED PURSUANT TO SUBSECTION (1) OF THIS SECTION, AND UPON RECEIVING A DISCOVERY REQUEST FROM A DEFENDANT, THE DISTRICT ATTORNEY SHALL PROVIDE THE DEFENDANT COPIES OF THE FOLLOWING:

(a) ALL MATERIAL THAT WAS PREVIOUSLY DISCOVERED IN THE CASE THAT IS NOT ALREADY IN THE DEFENDANT'S PRESENT COUNSEL'S POSSESSION;

(b) ALL STATEMENTS, TRANSCRIPTS, AND REPORTS ABOUT THE WRONGFUL ACTION OR INVESTIGATION OF THE WRONGFUL ACTION, INCLUDING, BUT NOT LIMITED TO, STATEMENTS, TRANSCRIPTS, AND REPORTS FROM THE CRIME LABORATORY, INCLUDING AN UNREDACTED COPY OF THE FINAL REPORT, LAW ENFORCEMENT AGENCIES OR OFFICERS, AND THIRD PARTIES CONTRACTED TO INVESTIGATE THE WRONGFUL ACTION;

(c) ALL STATEMENTS, TRANSCRIPTS, REPORTS, OR LITIGATION PACKETS ABOUT THE HANDLING, TESTING, RETESTING, EXAMINATION, OR RESULTS RELATED TO THE PHYSICAL EVIDENCE IN THE DEFENDANT'S CASE;

(d) ALL COMMUNICATIONS, REPORTS, OR INFORMATION THAT RELATES TO ACCREDITATION, CERTIFICATION, OR LICENSURE RELATED TO, OR THAT MAY BE AFFECTED BY, THE WRONGFUL ACTION, WHICH INCLUDES ACCREDITATION, CERTIFICATION, OR LICENSURE OF THE CRIME LABORATORY OR THE CRIME LABORATORY EMPLOYEE ALLEGED TO HAVE COMMITTED THE WRONGFUL ACTION;

(e) CRIME LABORATORY POLICIES AND PROCEDURES THAT WERE APPLICABLE DURING THE TIME OF THE ALLEGED WRONGFUL ACTION THAT GOVERNED THE HANDLING, TESTING, OR EXAMINATION OF THE EVIDENCE HANDLED, TESTED, OR EXAMINED BY THE CRIME LABORATORY FOR WHICH THE CRIME LABORATORY EMPLOYEE ALLEGED TO HAVE COMMITTED THE WRONGFUL ACTION WORKED;

(f) ANY INFORMATION THAT TENDS TO IMPEACH THE CREDIBILITY OR RELIABILITY OF THE HANDLING, TESTING, OR EXAMINATION OF THE PHYSICAL EVIDENCE IN THE CASE;

(g) ALL MATERIALS OR INFORMATION RELATED TO THE CASE THAT TENDS TO NEGATE THE GUILT OF THE ACCUSED OR WOULD REDUCE THE PUNISHMENT OF THE ACCUSED; AND

(h) ANY OTHER MATERIAL REGARDING THE WRONGFUL ACTION THAT IS REQUESTED BY THE DEFENDANT THAT MAY BE RELEVANT TO DEMONSTRATING THE WRONGFUL ACTION OR MATERIALITY OF THE WRONGFUL ACTION IN THE DEFENDANT'S CASE.

(3) ANY PARTY MAY FILE A MOTION FOR A COURT ORDER TO ASSIST IN OBTAINING DISCOVERY PURSUANT TO THIS SECTION. WHEN MATERIAL IS REASONABLY BELIEVED TO EXIST AND IS REQUIRED TO BE PROVIDED PURSUANT TO THIS SECTION, BUT HAS

NOT BEEN PROVIDED IN RESPONSE TO PROPER REQUESTS, A SUBPOENA MAY BE ISSUED FOR SUCH MATERIAL.

(4) NOTHING IN THIS SECTION PREVENTS OR LIMITS A COURT FROM ORDERING ADDITIONAL DISCOVERY PURSUANT TO A LAW OR COURT RULE THAT AUTHORIZES A COURT TO ORDER DISCOVERY.

(5) (a) UNLESS IT IS IN CONFLICT WITH A SPECIFIC PROVISION OF THIS SECTION, RULE 16 OF THE COLORADO RULES OF CRIMINAL PROCEDURE APPLIES TO ANY POST-CONVICTION PROCEEDINGS UNDER THIS SECTION.

(b) IN POST-CONVICTION PROCEEDINGS UNDER THIS SECTION, A PROSECUTING ATTORNEY SHALL PERFORM THEIR OBLIGATIONS:

(I) PURSUANT TO SUBSECTIONS (2)(a), (2)(b), (2)(c), AND (2)(d) OF THIS SECTION AS SOON AS PRACTICABLE, BUT NOT LATER THAN FORTY-FIVE DAYS AFTER THE PROSECUTING ATTORNEY RECEIVES A VALID DISCOVERY REQUEST OR COURT ORDER PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION; AND

(II) PURSUANT TO SUBSECTIONS (2)(e), (2)(f), (2)(g), AND (2)(h) OF THIS SECTION AS SOON AS PRACTICABLE, BUT NOT LATER THAN THIRTY-FIVE DAYS BEFORE THE EVIDENTIARY HEARING REGARDING THE POST-CONVICTION PROCEEDING.

(6) (a) WITH REGARD TO ALL MATTERS OF DISCOVERY UNDER THIS SECTION, THE COURT MAY ISSUE A PROTECTIVE ORDER UPON A SHOWING OF CAUSE BY A PARTY OR A THIRD PARTY WHO HAS STANDING, INCLUDING THE CRIME LABORATORY ANALYST ACCUSED OF WRONGFUL ACTION, SO LONG AS ALL MATERIAL TO WHICH A PARTY IS ENTITLED MUST BE DISCLOSED IN TIME FOR THE PARTY TO MAKE BENEFICIAL USE THEREOF.

(b) PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION, THE COURT MAY ENTER A PROTECTIVE ORDER AT ANY TIME THAT:

(I) REQUIRES SPECIFIC DISCLOSURES TO BE RESTRICTED OR DEFERRED;

(II) ASSISTS IN ENSURING MATERIALS FURNISHED IN DISCOVERY ARE ONLY PROVIDED TO A PERSON TO PREPARE A CLAIM FOR POST-CONVICTION RELIEF OR TO PREPARE FOR TRIAL OF A CASE;

(III) PROTECTS THE PRIVACY RIGHTS OF ANY PERSON; OR

(IV) THE COURT DEEMS NECESSARY.

(c) WHEN DETERMINING WHETHER TO ISSUE A PROTECTIVE ORDER INVOLVING INFORMATION DISCLOSED PURSUANT TO THIS SECTION ABOUT ALLEGATIONS OF WRONGFUL ACTION BY A CRIME LABORATORY EMPLOYEE THAT ARE STILL UNDER INVESTIGATION OR THAT WERE NOT SUSTAINED BY THE CRIME LABORATORY, THE COURT SHALL GIVE WEIGHT TO PROTECTING THE CRIME LABORATORY EMPLOYEE'S PRIVACY.

(7) (a) IF A DEFENDANT ALLEGES A CLAIM OF INEFFECTIVE ASSISTANCE OF

COUNSEL AS PART OF A CLAIM BROUGHT PURSUANT TO THIS SECTION, THE PROVISIONS OF SECTION 18-1-417 REGARDING WAIVER OF CONFIDENTIALITY APPLY.

(b) THE COUNSEL OF RECORD SHALL DISCLOSE ANY MATERIALS FROM A PRIOR COUNSEL FILE THAT MUST BE DISCLOSED PURSUANT TO SECTION 18-1-417 AS SOON AS PRACTICABLE UPON A REQUEST FROM THE PROSECUTION AND NO LATER THAN THIRTY-FIVE DAYS FROM THE REQUEST OF THE PROSECUTION. THE CUSTODIAN MAY FILE A MOTION WITH THE COURT AND THE COURT MAY GRANT AN EXTENSION TO MAKE THE DISCLOSURE UPON A SHOWING OF GOOD CAUSE.

(c) AFTER MAKING A REQUEST PURSUANT TO SECTION 18-1-417 UPON A SHOWING OF A GOOD FAITH BELIEF THAT MATERIAL EXISTS WITHIN THE SCOPE OF A CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL THAT HAS NOT BEEN PRODUCED, THE PROSECUTION MAY FILE A MOTION WITH THE COURT SEEKING IN CAMERA REVIEW OF MATERIAL SUBJECT TO A GOOD FAITH DISPUTE. THE PROSECUTION SHALL SERVE ANY SUCH REQUEST UPON THE CUSTODIAN OF THE RECORDS.

(8) SUBJECT TO CONSTITUTIONAL LIMITATIONS, THE COURT SHALL SET A DEADLINE AT LEAST THIRTY-FIVE DAYS PRIOR TO THE EVIDENTIARY HEARING FOR THE PARTIES TO:

(a) EXCHANGE THE NAME AND ADDRESS OF EACH WITNESS A PARTY MAY CALL AT THE HEARING AND TO DESIGNATE WITNESSES WHO ARE LIKELY TO BE CALLED; AND

(b) DESIGNATE A WITNESS AS AN EXPERT AND DESIGNATE THE AREA IN WHICH THE PARTY WILL SEEK TO QUALIFY THE EXPERT. SUBJECT TO CONSTITUTIONAL LIMITATIONS, THE COURT SHALL ORDER THE PARTIES TO PROVIDE A REPORT FROM THE DESIGNATED EXPERT OR SUMMARY OF THE EXPERT'S TESTIMONY THAT ALLOWS THE OPPOSING PARTY TO PREPARE TO RESPOND TO THE EXPERT'S TESTIMONY.

16-12-310. Petition for post-conviction relief - petition requirements.

(1) NOTWITHSTANDING ANY OTHER CLAIM FOR POST-CONVICTION RELIEF AVAILABLE PURSUANT TO FEDERAL OR STATE LAW, INCLUDING RELIEF AVAILABLE PURSUANT TO THE COLORADO RULES OF CRIMINAL PROCEDURE, A DEFENDANT WHO WAS CONVICTED OF A CRIMINAL OFFENSE WHO RECEIVES A NOTICE OF REPORTED WRONGFUL ACTION PURSUANT TO SECTION 16-12-306 OR WHO FILES A PLEADING NAMING A CRIME LABORATORY EMPLOYEE WHO WORKED ON THE DEFENDANT'S CASE WHO IS SUBJECT TO AN INVESTIGATION OF WRONGFUL ACTION HAS A RIGHT TO PETITION FOR RELIEF PURSUANT TO THIS PART 3.

(2) TO INITIATE A CLAIM FOR POST-CONVICTION RELIEF, THE DEFENDANT SHALL FILE A PETITION THAT INCLUDES:

(a) IF NOT ALREADY FILED WITH THE COURT, A COPY OF THE NOTICE RECEIVED PURSUANT TO SECTION 16-12-306 OR A STATEMENT THAT NAMES A CRIME LABORATORY EMPLOYEE WHO WORKED ON THE DEFENDANT'S CASE WHO IS SUBJECT TO AN INVESTIGATION OF WRONGFUL ACTION;

(b) A STATEMENT OF THE RELEVANT PROCEDURAL HISTORY OF THE DEFENDANT'S CASE, INCLUDING THE CRIMES FOR WHICH THE DEFENDANT WAS CONVICTED;

(c) THE FACTS AND LEGAL BASIS FOR RELIEF, WHICH MUST INCLUDE SUFFICIENT ALLEGATIONS THAT, IF TRUE, ENTITLE THE DEFENDANT TO RELIEF; AND

(d) A DESCRIPTION OF THE TIME LIMIT FOR FILING THE PETITION.

(3) A COURT SHALL PERMIT A DEFENDANT TO SUPPLEMENT A PETITION WITH RELEVANT FACTUAL ASSERTIONS AND LEGAL AUTHORITIES SO LONG AS THE DISTRICT ATTORNEY HAS A FAIR NOTICE AND ABILITY TO RESPOND.

(4) THE COURT MAY DISMISS A PETITION FOR FAILING TO SUBSTANTIALLY COMPLY WITH THE REQUIREMENTS OF THIS SECTION BUT ONLY AFTER MAKING A FINDING OF A SUBSTANTIAL DEFECT IN THE PETITION AND AFFORDING THE DEFENDANT AN OPPORTUNITY TO AMEND OR SUPPLEMENT THE PETITION TO CURE THE DEFECT.

(5) AFTER RECEIVING A PETITION AND ANY SUPPLEMENTS OR AMENDMENTS, THE COURT SHALL ORDER THE DISTRICT ATTORNEY TO RESPOND TO THE PETITION WITHIN THIRTY-FIVE DAYS AND AFFORD THE DEFENDANT AN OPPORTUNITY TO REPLY TO THE RESPONSE WITHIN TWENTY-ONE DAYS AFTER THE DISTRICT ATTORNEY'S RESPONSE IS FILED. THE DISTRICT ATTORNEY DOES NOT HAVE A DUTY TO RESPOND UNTIL ORDERED TO DO SO. A COURT MAY GRANT AN EXTENSION OF TIME FOR THE DISTRICT ATTORNEY TO FILE A RESPONSE OR A DEFENDANT TO FILE A REPLY. THE DISTRICT ATTORNEY'S RESPONSE AND ANY REPLY BY THE DEFENDANT MUST STATE FACTUAL ASSERTIONS AND LEGAL AUTHORITIES THAT AFFORD THE OPPOSING PARTY FAIR NOTICE AND ABILITY TO RESPOND.

(6) AFTER RECEIVING THE PETITION, A RESPONSE, AND ANY REPLY, THE COURT MAY DISMISS A PETITION WITHOUT A HEARING IF THE PETITION FAILS TO STATE SUFFICIENT ALLEGATIONS THAT, IF TRUE, ENTITLE THE DEFENDANT TO RELIEF.

(7) THE COURT SHALL NOT DENY A CLAIM BROUGHT PURSUANT TO THIS SECTION ON THE GROUNDS THAT THE WRONGFUL ACTION COULD OR SHOULD HAVE BEEN DISCOVERED THROUGH THE EXERCISE OF DUE DILIGENCE BEFORE THE DEFENDANT RECEIVED A NOTICE OF REPORTED WRONGFUL ACTION AS DESCRIBED IN SECTION 16-12-306 (1). IT IS PRESUMED THAT PRIOR TO RECEIVING A NOTICE PURSUANT TO SECTION 16-12-306 (1) THAT THE DEFENDANT AND THEIR COUNSEL DO NOT KNOW ABOUT THE WRONGFUL ACTION BY A CRIME LABORATORY, AND THAT PRESUMPTION CONSTITUTES AN OBJECTIVE FACTOR, EXTERNAL TO THE DEFENSE, WHICH MADE RAISING ANY CLAIM RELATED TO THE WRONGFUL ACTION IMPRACTICABLE PRIOR TO RECEIPT OF THE NOTICE.

(8) A CLAIM MADE PURSUANT TO THIS SECTION MUST RAISE ALL GROUNDS FOR RELIEF RELATED TO THE WRONGFUL ACTION. AFTER A COURT HAS DENIED A CLAIM MADE PURSUANT TO THIS SECTION, A COURT SHALL DENY AS SUCCESSIVE ADDITIONAL CLAIMS RELYING ON THE WRONGFUL ACTION UNLESS NEW EVIDENCE RELATING TO THE CLAIM IS DISCOVERED THAT COULD NOT HAVE BEEN DISCOVERED THROUGH THE EXERCISE OF DUE DILIGENCE BEFORE THE DENIAL OF THE PRIOR CLAIM.

(9) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A COURT SHALL NOT DENY A POST-CONVICTION CLAIM THAT IS UNRELATED TO WRONGFUL ACTION BECAUSE IT WAS NOT BROUGHT WITH A CLAIM PURSUANT TO THIS SECTION.

16-12-311. Time limitation on post-conviction petition for relief.

(1) (a) NOTWITHSTANDING THE LIMITATION IN SECTION 16-5-402, A CLAIM FOR POST-CONVICTION RELIEF RELYING IN WHOLE OR IN PART ON FACTS RELATED TO WRONGFUL ACTION MUST BE COMMENCED WITHIN THE APPLICABLE TIME PERIOD SET FORTH IN SUBSECTION (1)(b) OF THIS SECTION, WHICH BEGINS TO RUN UPON ACTUAL RECEIPT BY THE DEFENDANT OF THE NOTICE OF REPORTED WRONGFUL ACTION MADE PURSUANT TO SECTION 16-12-306.

(b) THE TIME PERIOD TO BRING A CLAIM FOR RELIEF PURSUANT TO THIS PART 3 IS AS FOLLOWS:

ALL CLASS 1 FELONIES:	NO LIMIT
ALL OTHER FELONIES:	THREE YEARS
MISDEMEANORS:	EIGHTEEN MONTHS
PETTY OFFENSES:	SIX MONTHS

(2) A COURT MAY PERMIT A DEFENDANT TO FILE A CLAIM AFTER THE TIME PERIOD DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION HAS EXPIRED ONLY UPON A SHOWING OF JUSTIFIABLE EXCUSE OR EXCUSABLE NEGLECT.

(3) THE TIME PERIOD DESCRIBED IN SUBSECTION (1) OF THIS SECTION IS TOLLED:

(a) IF A DEFENDANT IS ADJUDICATED TO BE INCOMPETENT, UNTIL THE COURT FINDS THAT THE DEFENDANT IS RESTORED TO COMPETENCY;

(b) FOR ANY TIME PERIOD DURING WHICH THE TRIAL COURT LACKS JURISDICTION, INCLUDING, BUT NOT LIMITED TO, ANY TIME PERIOD JURISDICTION IS IN AN APPELLATE COURT DUE A PENDING APPEAL; AND

(c) FOR ANY TIME PERIOD DURING WHICH A DEFENDANT'S WRITTEN REQUEST FOR COUNSEL MADE PURSUANT TO SECTION 16-12-308 IS PENDING UNTIL COUNSEL IS APPOINTED OR THE COURT DENIES THE MOTION.

(4) IF, PRIOR TO AN EVIDENTIARY HEARING HELD PURSUANT TO SECTION 16-12-312, THE PROSECUTION RAISES THAT THE PETITION INITIATING A CLAIM FOR POST-CONVICTION RELIEF WAS NOT TIMELY FILED, THE COURT SHALL, PRIOR TO THE EVIDENTIARY HEARING, DETERMINE WHETHER THE PETITION WAS TIMELY FILED. IF THE TIME PERIOD HAS EXPIRED, THE COURT SHALL DISMISS THE PETITION. AN ORDER DISMISSING THE PETITION BECAUSE THE TIME TO BRING THE PETITION EXPIRED IS A FINAL APPEALABLE ORDER.

16-12-312. Evidentiary hearing on post-conviction petition for relief - procedures - standards - material to the case described. (1) IF THE DEFENDANT'S PETITION FOR POST-CONVICTION RELIEF ASSERTS FACTS THAT, IF TRUE, DEMONSTRATE THAT WRONGFUL ACTION WAS MATERIAL TO THE DEFENDANT'S CASE, THE COURT SHALL DECIDE THE CLAIM UPON THE MERITS AFTER AN EVIDENTIARY HEARING.

(2) UPON THE REQUEST OF A PARTY, THE COURT MAY GRANT ADDITIONAL DISCRETIONARY DISCLOSURES TO EFFECTUATE FAIR PREPARATION AND PRESENTATION OF EVIDENCE BY THE OPPOSING PARTY. IN CASE OF LATE OR INCOMPLETE DISCLOSURE, THE COURT HAS THE DISCRETION TO ENTER ORDERS TO CURE OR REMEDY A VIOLATION OF ANY DEADLINES OR OTHER DISCOVERY REQUIREMENTS.

(3) AT THE EVIDENTIARY HEARING, THE DEFENDANT HAS THE BURDEN TO SHOW, BY A PREPONDERANCE OF THE EVIDENCE, THAT:

(a) A CRIME LABORATORY EMPLOYEE ENGAGED IN A WRONGFUL ACTION; AND

(b) THE CRIME LABORATORY EMPLOYEE'S CONDUCT DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION IS MATERIAL TO THE CASE.

(4) (a) IF THE DEFENDANT FAILS TO MEET THEIR BURDEN PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE COURT SHALL DISMISS THE CLAIM.

(b) IF THE DEFENDANT MEETS THEIR BURDEN PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE COURT SHALL VACATE THE CONVICTION AND GRANT A NEW TRIAL.

(5) (a) FOR THE PURPOSES OF THIS SECTION, WRONGFUL ACTION IS MATERIAL TO THE CASE IF, WHEN CONSIDERED IN THE TOTALITY OF THE CASE:

(I) THE EVIDENCE TESTED BY THE CRIME LABORATORY EMPLOYEE OR THE RESULTS OF TESTING OR TESTIMONY OF THE CRIME LABORATORY EMPLOYEE IS SIGNIFICANT AND IMPORTANT EVIDENCE IN THE CASE;

(II) (A) A FACT OR INFERENCE IN FAVOR OF GUILT THAT RESULTED FROM TESTING OR TESTIMONY ABOUT EVIDENCE TESTED BY THE CRIME LABORATORY EMPLOYEE WAS NOT ALSO ESTABLISHED BY INDEPENDENT, RELIABLE EVIDENCE; OR

(B) A FACT OR INFERENCE IN FAVOR OF INNOCENCE BASED UPON ANY TESTING OR TESTIMONY ABOUT EVIDENCE TESTED BY THE CRIME LABORATORY EMPLOYEE WAS NOT KNOWN OR PRESENTED PRIOR TO THE CONVICTION AND COULD BE PRESENTED AT A NEW TRIAL; AND

(III) THERE IS A REASONABLE PROBABILITY THAT, BUT FOR THE WRONGFUL ACTION, THE RESULTS OF THE PROCEEDING WOULD HAVE BEEN DIFFERENT, WHICH IS SATISFIED WHEN THERE IS EVIDENCE SUFFICIENT TO UNDERMINE CONFIDENCE IN THE VERDICT OR GUILTY PLEA.

(b) AS LONG AS THE REQUIREMENTS OF SUBSECTION (5)(a) OF THIS SECTION ARE SATISFIED, WRONGFUL ACTION MAY BE MATERIAL TO THE CASE IF THE WRONGFUL ACTION SIGNIFICANTLY IMPEACHES OR CASTS DOUBT UPON THE ACCURACY OF PHYSICAL EVIDENCE TESTING, THE PRESENTATION OF TEST RESULTS, TESTIMONY ABOUT THE TESTING OR PHYSICAL EVIDENCE BY A CRIME LABORATORY EMPLOYEE OR OTHER WITNESS.

(6) A RULING GRANTING OR A DENYING A NEW TRIAL AFTER AN EVIDENTIARY HEARING IS A FINAL APPEALABLE ORDER.

SECTION 2. In Colorado Revised Statutes, 24-4.1-302.5, **add** (1)(b.10) as follows:

24-4.1-302.5. Rights afforded to victims - definitions. (1) In order to preserve and protect a victim's rights to justice and due process, each victim of a crime has the following rights:

(b.10) THE RIGHT TO BE INFORMED, PURSUANT TO SECTION 16-12-307, OF WRONGFUL ACTION BY A CRIME LABORATORY EMPLOYEE IN A CASE INVOLVING A CRIME LISTED IN SECTION 24-4.1-302 (1).

SECTION 3. In Colorado Revised Statutes, 24-72-303, **amend** (4)(g); and **add** (4)(a.5) as follows:

24-72-303. Records of official actions required - open to inspection - applicability. (4) (a.5) (I) UPON COMPLETION OF A FINAL REPORT WHICH CONCLUDES A CRIME LABORATORY EMPLOYEE ENGAGED IN WRONGFUL ACTION, AS DESCRIBED IN SECTION 16-12-305 (5)(b), THE FINAL REPORT IS OPEN FOR PUBLIC INSPECTION, AND IF THE REQUESTER REQUESTS ACCESS TO REPORT, THE CUSTODIAN SHALL PROVIDE ACCESS TO THE FINAL REPORT SUBJECT TO THE PROVISIONS OF SUBSECTIONS (4)(b), (4)(c), AND (4)(d) OF THIS SECTION.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (4)(a.5)(I) OF THIS SECTION, THE CUSTODIAN OF A FINAL REPORT THAT CONCLUDES THAT A CRIME LABORATORY EMPLOYEE ENGAGED IN WRONGFUL ACTION MAY DENY INSPECTION OF THE REPORT IF THERE IS AN ONGOING CRIMINAL INVESTIGATION OR CRIMINAL CASE AGAINST A CRIME LABORATORY EMPLOYEE RELATED TO THE SUBJECT OF THE WRONGFUL ACTION. THE FINAL REPORT FILE MUST BE OPEN FOR PUBLIC INSPECTION UPON THE DISMISSAL OF ALL CHARGES OR UPON A SENTENCE FOR A CONVICTION.

(g) Notwithstanding the provisions of subsections (4)(a), ~~(4)(a.5)~~, and (4)(e) of this section, the custodian of an internal investigation file as described in subsection (4)(a) of this section OR A FINAL REPORT AS DESCRIBED IN SUBSECTION (4)(a.5) OF THIS SECTION may deny inspection of the file if the inspection is prohibited by rules promulgated ADOPTED by the Colorado supreme court or by a court order.

SECTION 4. Appropriation. (1) For the 2025-26 state fiscal year, \$140,443 is appropriated to the judicial department for use by the state courts. This appropriation is from the general fund. To implement this act, the state courts may use this appropriation as follows:

(a) \$16,840 for use by state courts administration for capital outlay; and

(b) \$123,603 for use by the trial courts for trial court programs, which amount is based on an assumption that the trial courts will require an additional 1.1 FTE.

SECTION 5. Applicability. This act applies to claims for relief filed on or after the effective date of this act that are based on knowing misconduct or a significant

event, as defined in this act, that occurred before, on, or after the effective date of this act.

SECTION 6. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: June 2, 2025