

## CHAPTER 20

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 09-1121**

BY REPRESENTATIVE(S) King S., Acree, Apuan, Baumgardner, Benefield, Bradford, Casso, Kerr J., Labuda, Lambert, Middleton, Priola, Stephens, Tipton, Vaad, Waller;  
also SENATOR(S) Renfroe, Kopp.

**AN ACT****CONCERNING THE DISPOSITION OF EVIDENCE COLLECTED IN CRIMINAL CASES.**

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

**SECTION 1.** Part 11 of article 1 of title 18, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

PART 11  
PRESERVATION OF DNA EVIDENCE

**18-1-1101. Definitions.** AS USED IN THIS PART 11, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DISPOSED OF" MEANS EVIDENCE IS DESTROYED, THROWN AWAY, OR RETURNED TO THE OWNER OR HIS OR HER DESIGNEE.

(2) "DNA" MEANS DEOXYRIBONUCLEIC ACID.

(3) "DNA EVIDENCE" MEANS ALL EVIDENCE COLLECTED BY LAW ENFORCEMENT IN A CRIMINAL INVESTIGATION, WHICH EVIDENCE MAY BE REASONABLY BELIEVED TO CONTAIN DNA THAT IS RELEVANT TO A DISPUTED ISSUE IN THE INVESTIGATION AND PROSECUTION OF THE CASE.

(4) "DNA PROFILE" MEANS AN IDENTIFIER OBTAINED AS A RESULT OF A SPECIFIC DNA ANALYSIS.

**18-1-1102. Scope.** (1) THE PROVISIONS OF THIS PART 11 SHALL APPLY TO THE PRESERVATION OF DNA EVIDENCE ONLY WHEN:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(a) THE INVESTIGATION OF A FELONY DOES NOT RESULT IN OR HAS NOT RESULTED IN CHARGES BEING FILED; OR

(b) THE FILED CHARGES RESULTED IN A CONVICTION FOR A CLASS 1 FELONY OR FOR A SEX OFFENSE THAT CARRIES AN INDETERMINATE SENTENCE PURSUANT TO SECTION 18-1.3-1004; OR

(c) THE FILED CHARGES RESULTED IN A CONVICTION FOR A FELONY NOT COVERED BY PARAGRAPH (b) OF THIS SUBSECTION (1); OR

(d) THE FILED CHARGES RESULTED IN A CONVICTION FOR ANY OFFENSE NOT COVERED BY PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (1), AND AT LEAST ONE OF THE CHARGES FILED INVOLVED A SEX OFFENSE AS DEFINED IN SECTION 18-1.3-1003 (5).

(2) FOR PURPOSES OF SUBSECTION (1) OF THIS SECTION, CONVICTION SHALL INCLUDE A VERDICT OF GUILTY BY A JUDGE OR JURY, A PLEA OF GUILTY OR NOLO CONTENDERE, OR A DEFERRED JUDGMENT AND SENTENCE. FOR PURPOSES OF PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION, CONVICTION SHALL ALSO INCLUDE A JUVENILE DELINQUENT ADJUDICATION OR DEFERRED ADJUDICATION.

(3) THIS PART 11 DOES NOT IMPOSE A STATUTORY DUTY TO RETAIN OR STORE EVIDENCE OTHER THAN IN THE SITUATIONS DESCRIBED IN THIS SECTION.

**18-1-1103. Duty to preserve DNA evidence.** (1) A LAW ENFORCEMENT AGENCY THAT COLLECTS DNA EVIDENCE IN CONDUCTING A CRIMINAL INVESTIGATION OF A FELONY THAT DOES NOT RESULT IN OR HAS NOT RESULTED IN CHARGES BEING FILED SHALL PRESERVE THE DNA EVIDENCE FOR THE LENGTH OF THE STATUTE OF LIMITATIONS FOR THE FELONY CRIME THAT WAS INVESTIGATED.

(2) EXCEPT AS PROVIDED IN SECTIONS 18-1-1105 TO 18-1-1107, A LAW ENFORCEMENT AGENCY THAT COLLECTS DNA EVIDENCE IN CONDUCTING A CRIMINAL INVESTIGATION THAT RESULTS IN A CONVICTION LISTED IN SECTION 18-1-1102 (1) SHALL PRESERVE THE DNA EVIDENCE FOR THE LIFE OF THE DEFENDANT WHO IS CONVICTED.

**18-1-1104. Manner and location of preservation of DNA evidence.**

(1) WHEN DNA EVIDENCE THAT IS SUBJECT TO PRESERVATION PURSUANT TO SECTION 18-1-1103 IS PROCESSED FOR THE DEVELOPMENT OF A DNA PROFILE, THE DNA PROFILE SHALL BE PRESERVED BY THE ACCREDITED LABORATORY IN COLORADO THAT DEVELOPS THE DNA PROFILE. IF THE DNA PROFILE IS NOT DEVELOPED BY AN ACCREDITED LABORATORY IN COLORADO, THE LABORATORY THAT PROCESSES THE DNA PROFILE SHALL SEND THE DNA PROFILE TO AN ACCREDITED LABORATORY IN COLORADO FOR PRESERVATION.

(2) A LAW ENFORCEMENT AGENCY THAT HAS CUSTODY OF DNA EVIDENCE THAT IS SUBJECT TO PRESERVATION PURSUANT TO SECTION 18-1-1103 SHALL PRESERVE THE EVIDENCE IN AN AMOUNT AND MANNER SUFFICIENT TO DEVELOP A DNA PROFILE, BASED ON THE BEST SCIENTIFIC PRACTICES AT THE TIME OF COLLECTION, FROM THE BIOLOGICAL MATERIAL CONTAINED IN OR INCLUDED ON THE EVIDENCE.

IF DNA EVIDENCE IS OF SUCH A SIZE, BULK, OR PHYSICAL CHARACTER AS TO RENDER RETENTION IMPRACTICABLE, THE LAW ENFORCEMENT AGENCY SHALL REMOVE AND PRESERVE PORTIONS OF THE EVIDENCE LIKELY TO CONTAIN DNA RELATED TO THE OFFENSE IN A QUANTITY SUFFICIENT, BASED ON THE BEST SCIENTIFIC PRACTICES AT THE TIME OF COLLECTION, TO PERMIT FUTURE DNA TESTING. THE PRESERVED DNA EVIDENCE SHALL, WHENEVER POSSIBLE, INCLUDE A SAMPLE SUFFICIENT TO ALLOW FOR INDEPENDENT TESTING BY THE DEFENDANT. AFTER PRESERVING THE NECESSARY AMOUNT OF THE DNA EVIDENCE, THE LAW ENFORCEMENT AGENCY MAY DISPOSE OF THE REMAINDER OF THE EVIDENCE.

(3) IF A LAW ENFORCEMENT AGENCY IS ASKED TO PRODUCE DNA EVIDENCE THAT IS SUBJECT TO PRESERVATION PURSUANT TO SECTION 18-1-1103 AND CANNOT PRODUCE THE EVIDENCE, THE CHIEF EVIDENCE CUSTODIAN FOR THE LAW ENFORCEMENT AGENCY SHALL PROVIDE AN AFFIDAVIT IN WHICH HE OR SHE DESCRIBES, UNDER PENALTY OF PERJURY, THE EFFORTS TAKEN TO LOCATE THE DNA EVIDENCE AND AFFIRMS THAT THE DNA EVIDENCE COULD NOT BE LOCATED.

(4) IF UPON REQUEST A LAW ENFORCEMENT AGENCY CANNOT PRODUCE DNA EVIDENCE THAT IS SUBJECT TO PRESERVATION PURSUANT TO SECTION 18-1-1103, THE COURT SHALL DETERMINE WHETHER THE DISPOSAL OF THE DNA EVIDENCE VIOLATED THE DEFENDANT'S DUE PROCESS RIGHTS, AND, IF SO, THE COURT SHALL ORDER AN APPROPRIATE REMEDY.

**18-1-1105. Law enforcement agency request for permission to dispose of evidence - procedures.** (1) A LAW ENFORCEMENT AGENCY MAY NOT REQUEST PERMISSION TO DISPOSE OF DNA EVIDENCE IN CASES DESCRIBED IN SECTION 18-1-1102 (1) (a) AND (1) (b).

(2) IN CASES DESCRIBED IN SECTION 18-1-1102 (1) (c) AND (1) (d), A LAW ENFORCEMENT AGENCY MAY SEEK TO DISPOSE OF DNA EVIDENCE BY PROVIDING NOTICE, IN THE FORM DEVELOPED PURSUANT TO SECTION 18-1-1108, TO THE DISTRICT ATTORNEY THAT PROSECUTED THE CHARGES ARISING OUT OF THE INVESTIGATION.

(3) UPON RECEIPT OF THE NOTICE DESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT TO THE DISPOSAL OF THE DNA EVIDENCE. THE DISTRICT ATTORNEY MAY DETERMINE THAT A PORTION OF THE DNA EVIDENCE MAY BE DISPOSED OF AND A PORTION OF THE DNA EVIDENCE SHALL BE PRESERVED.

(4) (a) IF THE DISTRICT ATTORNEY DETERMINES THAT THE DNA EVIDENCE SHOULD NOT BE DISPOSED OF, THE DISTRICT ATTORNEY SHALL PROVIDE NOTICE TO THE LAW ENFORCEMENT AGENCY THAT THE DNA EVIDENCE SHALL BE PRESERVED. UPON THE RECEIPT OF THE NOTICE FROM THE DISTRICT ATTORNEY TO PRESERVE THE DNA EVIDENCE, THE LAW ENFORCEMENT AGENCY SHALL PRESERVE THE DNA EVIDENCE UNTIL SUCH TIME AS THE LAW ENFORCEMENT AGENCY IS PERMITTED BY A COURT ORDER TO DISPOSE OF THE DNA EVIDENCE.

(b) (I) IF THE DISTRICT ATTORNEY DETERMINES THAT ALL OR A PORTION OF THE DNA EVIDENCE MAY BE DISPOSED OF, HE OR SHE SHALL SEND NOTICE TO THE DEFENDANT AND THE LAW ENFORCEMENT AGENCY SPECIFYING WHICH DNA

EVIDENCE MAY BE DISPOSED OF. NOTICE TO THE DEFENDANT SHALL INCLUDE A COPY OF THE NOTICE FORM PREPARED BY THE LAW ENFORCEMENT AGENCY PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(II) THE DEFENDANT SHALL HAVE NINETY-FIVE DAYS FROM THE DATE THE NOTICE WAS SENT BY THE DISTRICT ATTORNEY TO FILE A MOTION TO PRESERVE DNA EVIDENCE IN THE COURT IN WHICH THE DEFENDANT WAS CONVICTED. THE MOTION SHALL STATE SPECIFIC GROUNDS SUPPORTING THE PRESERVATION OF THE DNA EVIDENCE, AND THE DEFENDANT SHALL PROVIDE COPIES OF THE MOTION TO THE DISTRICT ATTORNEY AND THE LAW ENFORCEMENT AGENCY.

(III) IF NO MOTION IS FILED WITHIN THE NINETY-FIVE-DAY PERIOD, THE DISTRICT ATTORNEY OR THE LAW ENFORCEMENT AGENCY REQUESTING DISPOSAL OF THE EVIDENCE SHALL FILE WITH THE COURT A COPY OF THE NOTICE SENT TO THE DEFENDANT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), AND THE COURT SHALL FORTHWITH, WITHOUT HEARING, ENTER AN ORDER AUTHORIZING DISPOSAL OF THE DNA EVIDENCE AND PROVIDE COPIES OF THE ORDER TO THE DEFENDANT, DISTRICT ATTORNEY, AND LAW ENFORCEMENT AGENCY.

(IV) IF THE DEFENDANT FILES A MOTION, THE COURT SHALL FOLLOW THE PROCEDURE SET FORTH IN SUBSECTION (6) OF THIS SECTION.

(c) (I) IF THE LAW ENFORCEMENT AGENCY DOES NOT RECEIVE NOTICE FROM THE DISTRICT ATTORNEY AS DESCRIBED IN PARAGRAPH (a) OR (b) OF THIS SUBSECTION (4) WITHIN A REASONABLE AMOUNT OF TIME OR DOES RECEIVE TIMELY NOTICE FROM THE DISTRICT ATTORNEY PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), THE LAW ENFORCEMENT AGENCY MAY FILE A MOTION WITH THE COURT THAT ENTERED THE CONVICTION IN THE CASE IN WHICH THE EVIDENCE WAS COLLECTED, ASKING FOR A COURT ORDER TO DISPOSE OF THE DNA EVIDENCE. THE MOTION SHALL INCLUDE A COPY OF THE NOTICE THE LAW ENFORCEMENT AGENCY PROVIDED TO THE DISTRICT ATTORNEY. THE LAW ENFORCEMENT AGENCY SHALL PROVIDE A COPY OF THE DISPOSAL MOTION TO THE DISTRICT ATTORNEY AND THE DEFENDANT CONTEMPORANEOUSLY WITH THE FILING OF THE MOTION. THE LAW ENFORCEMENT AGENCY SHALL SPECIFY THE DNA EVIDENCE FOR WHICH DISPOSAL IS REQUESTED IN THE MOTION.

(II) THE DEFENDANT OR THE DISTRICT ATTORNEY SHALL HAVE NINETY-FIVE DAYS AFTER THE DISPOSAL MOTION IS SENT TO FILE AN OBJECTION IN THE COURT IN WHICH THE DISPOSAL MOTION WAS FILED. THE OBJECTION SHALL STATE SPECIFIC GROUNDS SUPPORTING THE PRESERVATION OF THE DNA EVIDENCE. IF THE DISTRICT ATTORNEY FILES AN OBJECTION, THE DISTRICT ATTORNEY SHALL PROVIDE COPIES OF THE OBJECTION TO THE DEFENDANT AND THE LAW ENFORCEMENT AGENCY. IF THE DEFENDANT FILES AN OBJECTION, THE DEFENDANT SHALL PROVIDE COPIES OF THE OBJECTION TO THE DISTRICT ATTORNEY AND THE LAW ENFORCEMENT AGENCY.

(5) THE DEFENDANT, THROUGH LEGAL COUNSEL, SHALL HAVE A REASONABLE RIGHT TO REVIEW THE DNA EVIDENCE TO PREPARE THE FILING OF A TIMELY OBJECTION TO THE DISPOSAL MOTION OR THE DISTRICT ATTORNEY'S NOTICE RECEIVED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION.

(6) (a) UPON RECEIPT PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (c) OF

SUBSECTION (4) OF THIS SECTION OF A TIMELY FILED OBJECTION, THE COURT MAY DENY THE OBJECTION WITHOUT A HEARING IF IT FINDS ON THE FACE OF THE OBJECTION NO GROUNDS SUPPORTING THE REQUEST TO PRESERVE THE DNA EVIDENCE. THE COURT SHALL THEN ENTER AN ORDER AUTHORIZING DISPOSAL OF THE DNA EVIDENCE AND PROVIDE COPIES OF THE ORDER TO THE DEFENDANT, DISTRICT ATTORNEY, AND LAW ENFORCEMENT AGENCY.

(b) IF THE COURT DETERMINES THAT A TIMELY FILED OBJECTION OR MOTION TO PRESERVE STATES ADEQUATE GROUNDS TO REQUIRE PRESERVATION OF THE DNA EVIDENCE, THE COURT MAY SET A HEARING ON THE OBJECTION OR MOTION TO PRESERVE, WITH NOTICE TO THE DISTRICT ATTORNEY, THE LAW ENFORCEMENT AGENCY, AND THE DEFENDANT, OR THE COURT MAY DENY THE DISPOSAL MOTION WITHOUT A HEARING.

(c) IN CONSIDERING AN OBJECTION OR MOTION TO PRESERVE PURSUANT TO THIS SUBSECTION (6), THE COURT SHALL CONSIDER THE FOLLOWING FACTORS IN DETERMINING WHETHER TO ORDER PRESERVATION OF THE DNA EVIDENCE:

(I) WHETHER IDENTIFICATION WAS A DISPUTED ISSUE;

(II) WHETHER THE EVIDENCE CONTAINS KNOWN DNA;

(III) WHETHER IT IS POSSIBLE TO PERFORM DNA TESTING ON THE EVIDENCE THAT HAS NOT PREVIOUSLY BEEN PERFORMED;

(IV) WHETHER THE DEFENDANT HAS SERVED ALL OF HIS OR HER SENTENCE; AND

(V) WHETHER THE DEFENDANT HAS STATE APPELLATE OR COLLATERAL ATTACK RIGHTS THAT HAVE NOT BEEN EXHAUSTED, IN WHICH CASE THERE SHALL BE A PRESUMPTION THAT THE DNA EVIDENCE SHOULD BE PRESERVED.

(d) FOLLOWING A HEARING ON A DISPOSAL MOTION OR MOTION TO PRESERVE, THE COURT SHALL ENTER AN ORDER EITHER AUTHORIZING DISPOSAL OF THE DNA EVIDENCE OR ORDERING THE DNA EVIDENCE TO BE PRESERVED. IF THE COURT ORDERS PRESERVATION, THE ORDER MAY STATE THE LENGTH OF TIME THE DNA EVIDENCE SHALL BE PRESERVED OR ESTABLISH A CONDITION PRECEDENT FOR THE DISPOSITION OF THE DNA EVIDENCE.

**18-1-1106. Defendant request for disposition of or waiver of preservation of DNA evidence - procedures.** (1) IN A CASE DESCRIBED IN SECTION 18-1-1102 (1), A DEFENDANT MAY PETITION THE COURT ON HIS OR HER OWN BEHALF FOR THE DISPOSAL OF DNA EVIDENCE IN HIS OR HER CASE. THE DEFENDANT SHALL PROVIDE A COPY OF THE PETITION TO THE DISTRICT ATTORNEY, WHO MAY JOIN WITH OR OBJECT TO THE DEFENDANT'S PETITION. UPON THE FILING OF THE PETITION, THE TIMING AND PROCEDURES OF SECTION 18-1-1105 SHALL APPLY. BY FILING A PETITION FOR DISPOSITION OF DNA EVIDENCE, THE DEFENDANT WAIVES ANY RIGHT TO PRESERVATION OF THAT EVIDENCE UNDER THIS PART 11. HOWEVER, A DEFENDANT MAY NOT BE COMPELLED TO FILE A MOTION UNDER THIS SECTION IN ORDER TO OBTAIN A PLEA OR SENTENCE AGREEMENT.

(2) IN A CASE DESCRIBED IN SECTION 18-1-1102 (1), A DEFENDANT MAY WAIVE

HIS OR HER RIGHT TO PRESERVATION OF DNA EVIDENCE UNDER THIS PART 11 AT ANY STAGE OF THE PROCEEDING BY MAKING A KNOWING AND VOLUNTARY WAIVER. A WAIVER EXECUTED AS A PART OF A PLEA BARGAIN OR SENTENCING AGREEMENT SHALL BE VOLUNTARILY AGREED TO BY ALL PARTIES AND SHALL INCLUDE A WRITTEN LIST DESCRIBING ALL EVIDENCE TO BE DISPOSED OF.

**18-1-1107. Victim request for disposition of DNA evidence - procedures.** IN A CASE DESCRIBED IN SECTION 18-1-1102 (1), IF DNA EVIDENCE IS BEING HELD THAT IS THE PROPERTY OF THE VICTIM, AS DEFINED IN SECTION 24-4.1-302 (5), C.R.S., OF THE CRIME, THE VICTIM MAY REQUEST THE DISTRICT ATTORNEY TO REVIEW WHETHER THE DNA EVIDENCE MAY BE RETURNED. IF THE DISTRICT ATTORNEY DETERMINES THE DNA EVIDENCE MAY BE RETURNED, THE DISTRICT ATTORNEY MAY FILE A PETITION WITH THE COURT FOR THE RETURN OF THE DNA EVIDENCE. THE DISTRICT ATTORNEY SHALL PROVIDE NOTICE TO THE DEFENDANT OF THE PETITION. UPON THE FILING OF THE PETITION, THE TIMING AND PROCEDURES OF SECTION 18-1-1105 SHALL APPLY.

**18-1-1108. Notice - form and sufficiency.** (1) NOTICE TO THE DEFENDANT AS REQUIRED BY THIS PART 11 SHALL BE PROPER IF IT IS SENT BY UNITED STATES MAIL OR HAND-DELIVERED TO THE ATTORNEY OF RECORD FOR THE DEFENDANT AS DEFINED IN RULE 44 OF THE COLORADO RULES OF CRIMINAL PROCEDURE. IF THERE IS NO ATTORNEY OF RECORD, NOTICE TO THE DEFENDANT SHALL BE PROPER IF IT IS SENT BY UNITED STATES MAIL TO THE LAST-KNOWN ADDRESS OF THE DEFENDANT AS REFLECTED IN THE CURRENT MOTOR VEHICLE RECORDS OR, IF NO SUCH RECORD EXISTS, THE LAST-KNOWN ADDRESS IN THE COURT FILE. PRIOR TO SENDING NOTICE BY UNITED STATES MAIL, HOWEVER, THE DISTRICT ATTORNEY SHALL FIRST REVIEW THE DEPARTMENT OF CORRECTIONS RECORDS TO DETERMINE WHETHER THE DEFENDANT IS IN THE PHYSICAL CUSTODY OF THE DEPARTMENT OF CORRECTIONS OR ON PAROLE. IF THE DEFENDANT IS IN THE PHYSICAL CUSTODY OF THE DEPARTMENT OF CORRECTIONS OR ON PAROLE, THE DISTRICT ATTORNEY SHALL SEND NOTICE BY UNITED STATES MAIL TO THE CORRECTIONAL FACILITY IN WHICH, ACCORDING TO THE DEPARTMENT'S RECORDS, THE DEFENDANT IS HOUSED OR TO THE ADDRESS TO WHICH THE DEFENDANT HAS BEEN PAROLED. IF THE LETTER IS RETURNED BECAUSE THE DEFENDANT HAS BEEN TRANSFERRED TO A DIFFERENT CORRECTIONAL FACILITY, THE DISTRICT ATTORNEY SHALL SEND NOTICE TO THE NEW FACILITY IN WHICH THE DEFENDANT IS HOUSED.

(2) THE DEPARTMENT OF PUBLIC SAFETY, IN CONSULTATION WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES, SHALL DEVELOP A FORM TO BE USED BY ALL LAW ENFORCEMENT AGENCIES FOR PROVIDING NOTICE TO THE DISTRICT ATTORNEY AND THE DEFENDANT AS DESCRIBED IN SECTION 18-1-1105 (2).

**18-1-1109. Court data collection - DNA evidence cases - repeal.** (1) WHEN THE COURT SENTENCES A PERSON OR ENTERS A DEFERRED SENTENCE OR DEFERRED ADJUDICATION FOR A CONVICTION LISTED IN SECTION 18-1-1102, THE DISTRICT ATTORNEY SHALL MAKE A REPRESENTATION TO THE COURT REGARDING THE FOLLOWING ISSUES:

(a) WHETHER IDENTIFICATION OF THE PERPETRATOR WAS A DISPUTED ISSUE IN THE CASE;

- (b) WHETHER THE CASE INCLUDES EVIDENCE THAT CONTAINS KNOWN DNA;
- (c) WHETHER IT IS POSSIBLE TO PERFORM DNA TESTING ON EVIDENCE IN THE CASE THAT HAS NOT PREVIOUSLY BEEN PERFORMED;
- (d) WHETHER THE CASE INCLUDES DNA EVIDENCE THAT SHOULD BE PRESERVED;
- (e) THE CHARGES FOR WHICH THE DEFENDANT WAS PROSECUTED AND THE CHARGES OF WHICH THE DEFENDANT WAS CONVICTED;
- (f) WHETHER THE DEFENDANT WAS CONVICTED AT TRIAL OR PLED GUILTY; AND
- (g) WHETHER THE DEFENDANT OR THE ATTORNEY FOR THE DEFENDANT DISAGREES WITH THE DISTRICT ATTORNEY'S REPRESENTATIONS REGARDING PARAGRAPHS (a) TO (d) OF THIS SUBSECTION (1).

(2) THE COURT SHALL ENTER THE INFORMATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION INTO ITS AUTOMATED CASE RECORD. IN ADDITION, THE COURT SHALL PROVIDE ON A MONTHLY BASIS TO THE DEPARTMENT OF PUBLIC SAFETY A REPORT OF THE DATA COLLECTED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(3) THE INFORMATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION IS FOR DATA COLLECTION PURPOSES ONLY AND DOES NOT AFFECT THE RIGHTS OF ANY PARTY. NEITHER PARTY IS ENTITLED TO A HEARING ON THE REPRESENTATIONS MADE IN SUBSECTION (1) OF THE SECTION.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2010.

**SECTION 2.** 24-33.5-104.5 (2), Colorado Revised Statutes, is amended to read:

**24-33.5-104.5. Powers of executive director - DNA evidence issues - working group.** (2) The department of public safety, in conjunction with the working group, shall prepare a report regarding the information collected pursuant to ~~section 18-1-1104~~ SECTION 18-1-1109, C.R.S. The department shall submit the report to the judiciary committees of the house of representatives and the senate, or any successor committees, no later than October 1, 2010.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 18, 2009