

**Second 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. 22-0204.01 Conrad Imel x2313

HOUSE BILL 22-1119

HOUSE SPONSORSHIP

Gray and Weissman,

SENATE SPONSORSHIP

Winter,

House Committees

Judiciary
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CIVIL LIABILITY FOR PRESENTING FALSE CLAIMS FOR**
102 **PAYMENT TO THE STATE, 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>.)

The bill establishes the "Colorado False Claims Act" (the act). Pursuant to the act, a person is liable to the state or a political subdivision of the state for a civil penalty if the person commits, conspires to commit, or aids and abets the commission of any of the following (collectively, "false claims"):

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
April 27, 2022

- Knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval;
- Knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim;
- Having possession, custody, or control of property or money used, or to be used, by the state or political subdivision and knowingly delivering, or causing to be delivered, less than all of the money or property;
- Authorizing the making or delivery of a document certifying receipt of property used, or to be used, by the state or political subdivision and, with the intent to defraud the state or political subdivision, making or delivering the receipt without completely knowing that the information on the receipt is true;
- Knowingly buying, or receiving as a pledge of an obligation or debt, public property from an officer or employee of the state or political subdivision who lawfully may not sell or pledge the property; or
- Knowingly making, using, or causing to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state or political subdivision, or knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or property to the state or political subdivision.

A person who makes a false claim is liable to the state or a political subdivision for the same amount provided in the federal "False Claims Act", as adjusted for inflation, plus 3 times the amount of the damages sustained by the state or political subdivision, and the costs incurred for the investigation and prosecution of the false claim.

The bill requires the attorney general or a local prosecutor to investigate false claims. The attorney general, prosecuting authority of a political subdivision, or a private individual (relator) may bring a civil action against a person who made a false claim. The bill permits the attorney general or prosecuting authority of a political subdivision to intervene in an action brought by a relator. A relator may be awarded up to 30% of the proceeds from a false claims action based on the extent the relator contributed to the investigation and prosecution of the false claim. If the relator is an employee of the state or political subdivision and learns information about the false claim in the course of the relator's work, the court will award that amount to the relator's employer.

The bill authorizes the state auditor to share information about potential false claims with the attorney general and a political subdivision.

A court cannot hear a false claim action:

- Brought against a serving member of the general assembly, a member of the state judiciary, or an elected official in the executive branch of the state of Colorado acting in the member's or official's official capacity; or
- Based on the same allegations or transactions that are the subject of a different civil or administrative proceeding.

The bill prohibits retaliatory action against an individual because of the individual's efforts in furtherance of investigating, prosecuting, or stopping false claims. A court hearing a false claims action may hear a claim for retaliation against the individual.

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

SECTION 1. In Colorado Revised Statutes, 24-31-101, **amend** (1)(p) and (1)(q); and **add** (1)(r) as follows:

24-31-101. Powers and duties of attorney general. (1) The attorney general:

(p) May bring a civil action to enforce the provisions of section 24-31-113; ~~and~~

(q) May bring a civil action to enforce the provisions of section 24-31-307 (2) or a criminal action to enforce the provisions of section 24-31-307 (3); AND

(r) MAY BRING OR INTERVENE IN A CIVIL ACTION, CONDUCT INVESTIGATIONS, AND ISSUE CIVIL INVESTIGATION DEMANDS PURSUANT TO THE "COLORADO FALSE CLAIMS ACT", PART 12 OF THIS ARTICLE 31.

SECTION 2. In Colorado Revised Statutes, **add** part 12 to article 31 of title 24 as follows:

PART 12

COLORADO FALSE CLAIMS ACT

24-31-1201. Short title. THE SHORT TITLE OF THIS PART 12 IS THE "COLORADO FALSE CLAIMS ACT".

24-31-1202. Definitions. AS USED IN THIS PART 12, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:

2 (1) (a) "CLAIM" MEANS A REQUEST OR DEMAND, WHETHER UNDER
3 A CONTRACT OR OTHERWISE, FOR MONEY OR PROPERTY AND WHETHER OR
4 NOT THE STATE OR A POLITICAL SUBDIVISION HAS TITLE TO THE MONEY OR
5 PROPERTY, THAT IS:

6 (I) PRESENTED TO AN OFFICER, EMPLOYEE, OR AGENT OF THE
7 STATE OR POLITICAL SUBDIVISION; OR

8 (II) MADE TO A CONTRACTOR, GRANTEE, OR OTHER RECIPIENT, IF
9 THE MONEY OR PROPERTY IS TO BE SPENT OR USED ON THE STATE'S OR
10 POLITICAL SUBDIVISION'S BEHALF OR TO ADVANCE A GOVERNMENT
11 PROGRAM OR INTEREST, AND IF THE STATE OR POLITICAL SUBDIVISION:

12 (A) PROVIDES OR HAS PROVIDED ANY PORTION OF THE MONEY OR
13 PROPERTY REQUESTED OR DEMANDED; OR

14 (B) WILL REIMBURSE SUCH CONTRACTOR, GRANTEE, OR OTHER
15 RECIPIENT FOR ANY PORTION OF THE MONEY OR PROPERTY THAT IS
16 REQUESTED OR DEMANDED.

17 (b) "CLAIM" DOES NOT INCLUDE A REQUEST OR DEMAND FOR
18 MONEY OR PROPERTY THAT THE STATE OR A POLITICAL SUBDIVISION HAS
19 PAID:

20 (I) TO AN INDIVIDUAL AS COMPENSATION FOR EMPLOYMENT BY
21 THE STATE OR POLITICAL SUBDIVISION;

22 (II) AS AN INCOME SUBSIDY WITH NO RESTRICTIONS ON THAT
23 INDIVIDUAL'S USE OF THE MONEY OR PROPERTY;

24 (III) TO AN INDIVIDUAL AS PART OF A GOVERNMENT ASSISTANCE
25 PROGRAM IN AN AMOUNT LESS THAN TEN THOUSAND DOLLARS IN A
26 CALENDAR YEAR; OR

27 (IV) TO AN INDIVIDUAL UNDER THE "COLORADO MEDICAL

1 ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5.

2 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF LAW.

3 (3) "FUND" MEANS THE FALSE CLAIMS RECOVERY CASH FUND
4 CREATED IN SECTION 24-31-1209.

5 (4) (a) "KNOWING" OR "KNOWINGLY" MEAN THAT A PERSON, WITH
6 RESPECT TO INFORMATION ABOUT A CLAIM:

7 (I) HAS ACTUAL KNOWLEDGE OF THE FALSITY OF THE
8 INFORMATION;

9 (II) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY OF
10 THE INFORMATION; OR

11 (III) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF
12 THE INFORMATION.

13 (b) "KNOWING" OR "KNOWINGLY" DOES NOT REQUIRE PROOF OF
14 SPECIFIC INTENT TO DEFRAUD. A PERSON WHO ACTS MERELY NEGLIGENTLY
15 WITH RESPECT TO INFORMATION IS NOT DEEMED TO HAVE ACTED
16 KNOWINGLY, UNLESS THE PERSON ACTS WITH RECKLESS DISREGARD OF
17 THE TRUTH OR FALSITY OF THE INFORMATION.

18 (5) "MATERIAL" MEANS HAVING A NATURAL TENDENCY TO
19 INFLUENCE, OR BE CAPABLE OF INFLUENCING, THE PAYMENT OR RECEIPT
20 OF MONEY OR PROPERTY.

21 (6) "OBLIGATION" MEANS AN ESTABLISHED DUTY, WHETHER OR
22 NOT FIXED, ARISING FROM AN EXPRESS OR IMPLIED CONTRACTUAL,
23 GRANTOR-GRANTEE, OR LICENSOR-LICENSEE RELATIONSHIP; FROM A
24 FEE-BASED OR SIMILAR RELATIONSHIP; FROM STATUTE OR REGULATION; OR
25 FROM THE RETENTION OF ANY OVERPAYMENT.

26 (7) "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, BUSINESS
27 TRUST, ESTATE, TRUST, LIMITED LIABILITY COMPANY, PARTNERSHIP,

1 ASSOCIATION, OR OTHER NONGOVERNMENTAL LEGAL ENTITY.

2 (8) "POLITICAL SUBDIVISION" MEANS A TOWN, CITY, COUNTY, OR
3 CITY AND COUNTY.

4 (9) "PROCEEDS" MEANS ALL MONEY, PROPERTY, DAMAGES,
5 DOUBLE DAMAGES, TREBLE DAMAGES, CIVIL PENALTIES, AND PAYMENTS
6 FOR COSTS OF COMPLIANCE, INCLUDING REASONABLE COSTS AND
7 ATTORNEY FEES, REALIZED BY THE STATE OR A POLITICAL SUBDIVISION,
8 WHETHER AS A RESULT OF ANY SETTLEMENT OF OR JUDGMENT ENTERED
9 IN ANY ACTION BROUGHT PURSUANT TO THIS PART 12.

10 (10) "PROSECUTING AUTHORITY" MEANS THE COUNTY ATTORNEY,
11 CITY ATTORNEY, OR OTHER LOCAL GOVERNMENT OFFICIAL, INCLUDING A
12 DULY ELECTED DISTRICT ATTORNEY, CHARGED WITH INVESTIGATING,
13 FILING, AND CONDUCTING CIVIL LEGAL PROCEEDINGS ON BEHALF OF, OR IN
14 THE NAME OF, A PARTICULAR POLITICAL SUBDIVISION.

15

16 **24-31-1203. False claims - civil liability for certain acts -**
17 **penalty - exception.** (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION
18 ANDEXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OF THIS SECTION,
19 A PERSON IS LIABLE TO THE STATE OR A POLITICAL SUBDIVISION FOR A
20 CIVIL PENALTY OF NOT LESS THAN ELEVEN THOUSAND EIGHT HUNDRED
21 DOLLARS AND NOT MORE THAN TWENTY-THREE THOUSAND SIX HUNDRED
22 DOLLARS PER VIOLATION, PLUS THREE TIMES THE AMOUNT OF DAMAGES
23 THAT THE STATE OR POLITICAL SUBDIVISION SUSTAINS BECAUSE OF THE
24 ACT OF THAT PERSON, IF THAT PERSON:

25 (a) KNOWINGLY PRESENTS, OR CAUSES TO BE PRESENTED, A FALSE
26 OR FRAUDULENT CLAIM FOR PAYMENT OR APPROVAL;

27 (b) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED A

1 FALSE RECORD OR STATEMENT MATERIAL TO A FALSE OR FRAUDULENT
2 CLAIM;

3 (c) HAS POSSESSION, CUSTODY, OR CONTROL OF PROPERTY OR
4 MONEY USED, OR TO BE USED, BY THE STATE OR POLITICAL SUBDIVISION
5 AND KNOWINGLY DELIVERS, OR CAUSES TO BE DELIVERED, LESS THAN ALL
6 OF THE MONEY OR PROPERTY;

7 (d) AUTHORIZES THE MAKING OR DELIVERY OF A DOCUMENT
8 CERTIFYING RECEIPT OF PROPERTY USED, OR TO BE USED, BY THE STATE OR
9 POLITICAL SUBDIVISION AND, WITH THE INTENT TO DEFRAUD THE STATE OR
10 POLITICAL SUBDIVISION, MAKES OR DELIVERS THE RECEIPT WITHOUT
11 COMPLETELY KNOWING THAT THE INFORMATION ON THE RECEIPT IS TRUE;

12 (e) KNOWINGLY BUYS, OR RECEIVES AS A PLEDGE OF AN
13 OBLIGATION OR DEBT, PUBLIC PROPERTY FROM AN OFFICER OR EMPLOYEE
14 OF THE STATE OR POLITICAL SUBDIVISION WHO LAWFULLY MAY NOT SELL
15 OR PLEDGE THE PROPERTY;

16 (f) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED A
17 FALSE RECORD OR STATEMENT MATERIAL TO AN OBLIGATION TO PAY OR
18 TRANSMIT MONEY OR PROPERTY TO THE STATE OR POLITICAL SUBDIVISION,
19 OR KNOWINGLY CONCEALS OR KNOWINGLY AND IMPROPERLY AVOIDS OR
20 DECREASES AN OBLIGATION TO PAY OR TRANSMIT MONEY OR PROPERTY TO
21 THE STATE OR POLITICAL SUBDIVISION; [REDACTED]

22 (g) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED,
23 A FALSE RECORD OR STATEMENT MATERIAL TO A CLAIM TO
24 UNEMPLOYMENT INSURANCE BENEFITS WHEN THE PERSON HAS
25 WRONGFULLY RECOVERED UNEMPLOYMENT INSURANCE BENEFITS FROM
26 THE STATE OF MORE THAN FIFTEEN THOUSAND DOLLARS IN A CALENDAR
27 YEAR; OR

1 (h) CONSPIRES TO COMMIT A VIOLATION OF SUBSECTIONS (1)(a) TO
2 (1)(g) OF THIS SECTION.

3 (2) (a) NOTWITHSTANDING THE AMOUNT OF DAMAGES
4 AUTHORIZED IN SUBSECTION (1) OF THIS SECTION, FOR A PERSON WHO
5 VIOLATES SUBSECTION (1) OF THIS SECTION, THE COURT MAY ASSESS
6 REDUCED DAMAGES AND PENALTIES AS DESCRIBED IN SUBSECTION (2)(b)
7 OR (2)(c) OF THIS SECTION IF THE COURT FINDS THAT:

8 (I) THE PERSON WHO COMMITTED THE VIOLATION FURNISHED TO
9 THE OFFICIALS OF THE STATE OR POLITICAL SUBDIVISION RESPONSIBLE FOR
10 INVESTIGATING FALSE CLAIMS VIOLATIONS ALL INFORMATION ABOUT THE
11 VIOLATION KNOWN TO THE PERSON AND FURNISHED SAID INFORMATION
12 WITHIN THIRTY DAYS AFTER THE DATE ON WHICH THE PERSON FIRST
13 LEARNED OF A POTENTIAL VIOLATION;

14 (II) AT THE TIME THE PERSON FURNISHED THE INFORMATION
15 ABOUT THE VIOLATION TO THE OFFICIALS OF THE STATE OR POLITICAL
16 SUBDIVISION, THE PERSON DID NOT HAVE ACTUAL OR CONSTRUCTIVE
17 KNOWLEDGE OF THE EXISTENCE OF AN INVESTIGATION INTO THE
18 VIOLATION; AND

19 (III) THE PERSON FULLY COOPERATED WITH ANY INVESTIGATION
20 OF THE VIOLATION BY THE STATE OR POLITICAL SUBDIVISION.

21 (b) IF A PERSON DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION
22 FURNISHED INFORMATION ABOUT THE VIOLATION TO THE OFFICIALS OF THE
23 STATE OR POLITICAL SUBDIVISION BEFORE A CRIMINAL PROSECUTION, CIVIL
24 ACTION, OR ADMINISTRATIVE ACTION WAS COMMENCED WITH RESPECT TO
25 THE VIOLATION, THE COURT SHALL ASSESS ONE AND ONE-HALF THE
26 AMOUNT OF ACTUAL DAMAGES RESULTING FROM THE FALSE CLAIM,
27 INCLUDING INTEREST FROM THE DATE OF THE FRAUD TO THE DATE OF FULL

1 REPAYMENT OF ALL DAMAGES, THAT THE STATE OR POLITICAL
2 SUBDIVISION SUSTAINS BECAUSE OF THE VIOLATION AND A CIVIL PENALTY
3 OF NOT LESS THAN FIVE THOUSAND NINE HUNDRED DOLLARS AND NOT
4 MORE THAN ELEVEN THOUSAND EIGHT HUNDRED DOLLARS PER VIOLATION.

5 (c) IF A PERSON DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION
6 FURNISHED INFORMATION ABOUT THE VIOLATION TO THE OFFICIALS OF THE
7 STATE OR POLITICAL SUBDIVISION WHILE A CRIMINAL PROSECUTION, CIVIL
8 ACTION, OR ADMINISTRATIVE ACTION CONCERNING THE VIOLATION WAS
9 UNDER SEAL PURSUANT TO SECTION 24-31-1204 (4)(b), THE COURT SHALL
10 ASSESS DOUBLE THE AMOUNT OF ACTUAL DAMAGES RESULTING FROM THE
11 FALSE CLAIM, INCLUDING INTEREST FROM THE DATE OF THE FRAUD TO THE
12 DATE OF FULL REPAYMENT OF ALL DAMAGES, THAT THE STATE OR
13 POLITICAL SUBDIVISION SUSTAINS BECAUSE OF THE VIOLATION AND A CIVIL
14 PENALTY OF NOT LESS THAN SEVEN THOUSAND EIGHT HUNDRED DOLLARS
15 AND NOT MORE THAN FIFTEEN THOUSAND SEVEN HUNDRED DOLLARS PER
16 VIOLATION.

17 (d) THE ATTORNEY GENERAL MAY DETERMINE WHETHER A PERSON
18 MEETS THE CRITERIA DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION
19 AND SUBMIT THE DETERMINATION AND REASONING TO THE COURT, WHICH
20 THE COURT MAY CONSIDER WHEN MAKING A FINDING AS TO WHETHER THE
21 BUSINESS SATISFIES THE CRITERIA DESCRIBED IN SUBSECTION (2)(a) OF
22 THIS SECTION.

23 (3) ANY INFORMATION FURNISHED PURSUANT TO SUBSECTION (2)
24 OF THIS SECTION IS EXEMPT FROM DISCLOSURE PURSUANT TO THE
25 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE
26 24.

27 (4) A PERSON WHO VIOLATES THIS SECTION IS ALSO LIABLE TO THE

1 STATE OR A POLITICAL SUBDIVISION FOR REASONABLE ATTORNEY FEES
2 AND THE COSTS INCURRED DURING THE ENFORCEMENT OF THIS PART 12.

3 (5) THIS SECTION DOES NOT APPLY TO CLAIMS, RECORDS, OR
4 STATEMENTS MADE PURSUANT TO TITLE 39.

5 (6) (a) THE MAXIMUM AND MINIMUM AMOUNTS FOR THE CIVIL
6 PENALTIES DESCRIBED IN THIS SECTION MUST BE ADJUSTED FOR INFLATION
7 ON JULY 1, 2023, AND EACH JULY 1 THEREAFTER. THE ADJUSTMENT MADE
8 PURSUANT TO THIS SUBSECTION (6) MUST BE ROUNDED UPWARD OR
9 DOWNWARD TO THE NEAREST TEN-DOLLAR INCREMENT. THE SECRETARY
10 OF STATE SHALL CERTIFY THE ADJUSTED MAXIMUM AND MINIMUM
11 AMOUNTS FOR CIVIL PENALTIES WITHIN FOURTEEN DAYS AFTER THE
12 APPROPRIATE INFORMATION IS AVAILABLE.

13 (b) FOR EACH ACTION BROUGHT PURSUANT TO THIS PART 12, THE
14 APPLICABLE MINIMUM AND MAXIMUM AMOUNTS FOR A CIVIL PENALTY ARE
15 THE AMOUNTS IN EFFECT ON THE DATE THE CAUSE OF ACTION ACCRUES.

16 (c) AS USED IN THIS SECTION, "INFLATION" MEANS THE ANNUAL
17 PERCENTAGE CHANGE IN THE DENVER-AURORA-LAKEWOOD CONSUMER
18 PRICE INDEX, OR ITS APPLICABLE SUCCESSOR INDEX, PUBLISHED BY THE
19 UNITED STATES DEPARTMENT OF LABOR BUREAU OF LABOR STATISTICS.

20 (7) FOR ACCOUNTING PURPOSES, A FINE OR PENALTY RECEIVED BY
21 THE STATE PURSUANT TO THIS PART 12 IS A DAMAGE AWARD.

22 (8) (a) IF THE ATTORNEY GENERAL OR A POLITICAL SUBDIVISION
23 HAS AUTHORITY TO BRING OR INTERVENE IN A CIVIL ACTION PURSUANT TO
24 THIS PART 12, THE ATTORNEY GENERAL OR POLITICAL SUBDIVISION MAY
25 ACCEPT FROM A PERSON ALLEGED TO HAVE VIOLATED SUBSECTION (1) OF
26 THIS SECTION, IN LIEU OF OR AS A PART OF A CIVIL ACTION, AN ASSURANCE
27 OF DISCONTINUANCE OR A CONSENT ORDER APPROVED BY A COURT OF

1 COMPETENT JURISDICTION OF THE ALLEGED VIOLATION OF THIS PART 12.
2 THE ASSURANCE OR CONSENT ORDER MAY INCLUDE A STIPULATION FOR
3 THE VOLUNTARY PAYMENT BY THE ALLEGED VIOLATOR OF ANY RELIEF
4 AUTHORIZED BY THIS PART 12, INCLUDING PAYMENT FOR INVESTIGATION
5 AND LITIGATION COSTS INCURRED BY THE ATTORNEY GENERAL, POLITICAL
6 SUBDIVISION, OR PRIVATE PERSON WHO BROUGHT AN ACTION PURSUANT
7 TO SECTION 24-31-1204 (4), AND ACTUAL DAMAGES RESULTING FROM THE
8 FALSE CLAIM PLUS ANY AUTHORIZED MULTIPLIER, INTEREST, AND CIVIL
9 MONEY PENALTY.

10 (b) AN ASSURANCE OF DISCONTINUANCE ACCEPTED BY THE
11 ATTORNEY GENERAL OR POLITICAL SUBDIVISION AND ANY CONSENT ORDER
12 FILED WITH THE COURT AS A PART OF AN ACTION IS A MATTER OF PUBLIC
13 RECORD UNLESS THE ATTORNEY GENERAL OR POLITICAL SUBDIVISION
14 DETERMINES, AT THE ATTORNEY GENERAL'S OR POLITICAL SUBDIVISION'S
15 DISCRETION, THAT IT IS CONFIDENTIAL TO THE PARTIES TO THE ACTION OR
16 PROCEEDING AND TO THE COURT AND ITS EMPLOYEES. UPON THE FILING OF
17 A CIVIL ACTION OR A MOTION OR PETITION IN A PENDING CIVIL ACTION BY
18 THE ATTORNEY GENERAL OR POLITICAL SUBDIVISION ALLEGING THAT A
19 PERSON HAS VIOLATED A CONFIDENTIAL ASSURANCE OF DISCONTINUANCE
20 OR CONSENT ORDER ACCEPTED PURSUANT TO THIS SUBSECTION (8), THE
21 ASSURANCE OF DISCONTINUANCE OR CONSENT ORDER IS A PUBLIC RECORD
22 AND OPEN TO INSPECTION BY ANY PERSON.

23 (c) PROOF BY A PREPONDERANCE OF THE EVIDENCE OF A
24 VIOLATION OF AN ASSURANCE OR STIPULATION OR CONSENT ORDER IS
25 PRIMA FACIE EVIDENCE OF A VIOLATION FOR THE PURPOSES OF ANY CIVIL
26 ACTION OR PROCEEDING BROUGHT BY THE ATTORNEY GENERAL OR
27 POLITICAL SUBDIVISION AFTER THE ALLEGED VIOLATION OF THE

1 ASSURANCE OR STIPULATION OR CONSENT ORDER, WHETHER A NEW
2 ACTION OR A MOTION OR PETITION IN A PENDING ACTION OR PROCEEDING.

3 **24-31-1204. Civil actions for false claims - claims for**
4 **retaliation - definitions. (1) Responsibility of attorney general.**

5 (a) THE ATTORNEY GENERAL SHALL DILIGENTLY INVESTIGATE A
6 VIOLATION OF SECTION 24-31-1203. IF THE ATTORNEY GENERAL FINDS
7 THAT A PERSON HAS VIOLATED OR IS VIOLATING SECTION 24-31-1203, THE
8 ATTORNEY GENERAL MAY BRING A CIVIL ACTION AGAINST THE PERSON
9 PURSUANT TO THIS SECTION.

10 (b) IF THE ATTORNEY GENERAL BRINGS A CIVIL ACTION PURSUANT
11 TO THIS SECTION ON A CLAIM INVOLVING POLITICAL SUBDIVISION MONEY
12 AS WELL AS STATE MONEY, THE ATTORNEY GENERAL SHALL SERVE BY
13 MAIL, WITH RETURN RECEIPT REQUESTED, A COPY OF THE COMPLAINT ON
14 THE SUBDIVISION'S APPROPRIATE PROSECUTING AUTHORITY WITHIN
15 FOURTEEN DAYS AFTER THE DATE THAT THE COMPLAINT IS FILED IN THE
16 ACTION.

17 (c) WITHIN SIXTY-THREE DAYS AFTER RECEIPT OF THE COMPLAINT
18 PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, AND SUBJECT TO
19 SUBSECTION (2)(d) OF THIS SECTION. THE PROSECUTING AUTHORITY SHALL
20 HAVE THE RIGHT TO INTERVENE IN AN ACTION BROUGHT BY THE
21 ATTORNEY GENERAL PURSUANT TO THIS SECTION. THE COURT MAY PERMIT
22 THE POLITICAL SUBDIVISION TO INTERVENE THEREAFTER UPON A SHOWING
23 THAT ALL OF THE REQUIREMENTS OF THE COLORADO RULES OF CIVIL
24 PROCEDURE HAVE BEEN MET.

25 (d) IN ANY ACTION BROUGHT PURSUANT TO THIS PART 12 IN WHICH
26 THE ATTORNEY GENERAL IS A PARTY, EITHER AS THE PLAINTIFF OR AS AN
27 INTERVENOR, THE COURT MAY DISMISS THE ACTION UPON MOTION OF THE

1 ATTORNEY GENERAL FOLLOWING THE NOTICE AND OPPORTUNITY FOR A
2 HEARING PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION. IN
3 DETERMINING WHETHER TO FILE A MOTION TO DISMISS, THE ATTORNEY
4 GENERAL SHALL CONSIDER THE SEVERITY OF THE FALSE CLAIM, PROGRAM
5 OR POPULATION IMPACTED BY THE FALSE CLAIM, DURATION OF THE FRAUD,
6 WEIGHT AND MATERIALITY OF THE EVIDENCE, OTHER MEANS TO MAKE THE
7 PROGRAM WHOLE, AND OTHER FACTORS THE ATTORNEY GENERAL DEEMS
8 RELEVANT. THE ATTORNEY GENERAL'S DECISION-MAKING PROCESS
9 CONCERNING A MOTION TO DISMISS AND ANY RECORDS RELATED TO THE
10 DECISION-MAKING PROCESS ARE NOT DISCOVERABLE IN ANY ACTION.

11 (2) **Responsibility of prosecuting authority.** (a) A PROSECUTING
12 AUTHORITY FOR A POLITICAL SUBDIVISION SHALL DILIGENTLY
13 INVESTIGATE A VIOLATION OF SECTION 24-31-1203 INVOLVING A CLAIM
14 FILED WITH THAT POLITICAL SUBDIVISION. IF THE PROSECUTING
15 AUTHORITY FINDS THAT A PERSON HAS VIOLATED OR IS VIOLATING
16 SECTION 24-31-1203, THE PROSECUTING AUTHORITY MAY BRING A CIVIL
17 ACTION AGAINST THE PERSON PURSUANT TO THIS SECTION.

18 (b) IF A PROSECUTING AUTHORITY BRINGS A CIVIL ACTION
19 PURSUANT TO THIS SECTION ON A CLAIM INVOLVING STATE AND POLITICAL
20 SUBDIVISION MONEY, THE PROSECUTING AUTHORITY SHALL SERVE BY
21 MAIL, WITH RETURN RECEIPT REQUESTED, A COPY OF THE COMPLAINT ON
22 THE ATTORNEY GENERAL WITHIN FOURTEEN DAYS AFTER THE DATE THAT
23 THE COMPLAINT IS FILED IN THE ACTION.

24 (c) WITHIN SIXTY-THREE DAYS AFTER RECEIVING THE COMPLAINT
25 PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION, THE ATTORNEY
26 GENERAL SHALL EITHER:

27 (I) NOTIFY THE COURT THAT THE ATTORNEY GENERAL INTENDS TO

1 PROCEED WITH THE ACTION, IN WHICH CASE THE ATTORNEY GENERAL
2 SHALL ASSUME PRIMARY RESPONSIBILITY FOR CONDUCTING THE ACTION
3 AND THE PROSECUTING AUTHORITY HAS THE RIGHT TO CONTINUE AS A
4 PARTY; OR

5 (II) NOTIFY THE COURT THAT THE ATTORNEY GENERAL DECLINES
6 TO TAKE OVER THE ACTION, IN WHICH CASE THE PROSECUTING AUTHORITY
7 HAS THE RIGHT TO CONDUCT THE ACTION.

8 (d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
9 A POLITICAL SUBDIVISION IS NOT PERMITTED TO BRING AN ACTION
10 PURSUANT TO THIS SUBSECTION (2) OR INTERVENE IN AN ACTION
11 PURSUANT TO SUBSECTION (1)(c) OR (4)(b) OF THIS SECTION WITHOUT THE
12 CONSENT OF THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S
13 DESIGNEE.

14 (e) THE LIMITATIONS AND REQUIREMENTS DESCRIBED IN SECTION
15 13-17-304 APPLY TO A CONTINGENT FEE CONTRACT BETWEEN A POLITICAL
16 SUBDIVISION AND A PRIVATE ATTORNEY ENTERED INTO FOR THE PURPOSE
17 OF BRINGING OR INTERVENING IN AN ACTION PURSUANT TO THIS PART 12.

18 (3) **Role of the office of the state auditor.**

19 (a) NOTWITHSTANDING ANY OTHER STATE LAW REQUIRING THE STATE
20 AUDITOR TO KEEP INFORMATION CONFIDENTIAL, IF IN THE COURSE OF ITS
21 AUDIT AUTHORITY, THE OFFICE OF THE STATE AUDITOR IDENTIFIES
22 INFORMATION OF POTENTIAL FALSE CLAIMS SUBMITTED TO THE STATE OR
23 A POLITICAL SUBDIVISION, THE STATE AUDITOR MAY SHARE ANY
24 INFORMATION WITH THE ATTORNEY GENERAL OR THE POLITICAL
25 SUBDIVISION. THE STATE AUDITOR MAY PARTICIPATE, WITH THE CONSENT
26 OF THE ATTORNEY GENERAL, IN ANY SUBSEQUENT INVESTIGATION OR
27 PROSECUTION OF THAT FALSE CLAIM.

1 (b) IF THE STATE AUDITOR ELECTS TO PARTICIPATE IN ANY
2 INVESTIGATION AND PROSECUTION OF A FALSE CLAIM, THE STATE
3 AUDITOR'S INTERESTS WILL BE REPRESENTED BY THE ATTORNEY GENERAL.

4 (4) **Actions by private persons.** (a) A PERSON MAY BRING A CIVIL
5 ACTION FOR A VIOLATION OF SECTION 24-31-1203 FOR THE PERSON AND
6 FOR THE STATE OR A POLITICAL SUBDIVISION THAT IS AFFECTED BY THE
7 VIOLATION. THE ACTION MUST BE BROUGHT IN THE NAME OF THE STATE OR
8 POLITICAL SUBDIVISION. THE COURT SHALL NOT DISMISS AN ACTION UPON
9 MOTION OF THE PRIVATE PERSON WHO BROUGHT THE ACTION UNLESS THE
10 ATTORNEY GENERAL OR THE PROSECUTING AUTHORITY GIVE WRITTEN
11 CONSENT TO THE DISMISSAL AND THEIR REASONS FOR CONSENTING.

12 (b) (I) A PERSON WHO BRINGS AN ACTION SHALL SERVE ON THE
13 STATE OR POLITICAL SUBDIVISION, PURSUANT TO RULE 4 OF THE
14 COLORADO RULES OF CIVIL PROCEDURE, A COPY OF THE COMPLAINT AND
15 WRITTEN DISCLOSURE OF SUBSTANTIALLY ALL MATERIAL EVIDENCE AND
16 INFORMATION THE PERSON POSSESSES; EXCEPT THAT THE PERSON SHALL
17 NOT DISCLOSE ANY EVIDENCE OR INFORMATION THAT THE PERSON
18 REASONABLY BELIEVES IS PROTECTED BY THE DEFENDANT'S
19 ATTORNEY-CLIENT PRIVILEGE UNLESS THE PRIVILEGE WAS WAIVED,
20 INADVERTENTLY OR OTHERWISE, BY THE PERSON WHO HOLDS THE
21 PRIVILEGE; AN EXCEPTION TO THE PRIVILEGE APPLIES; OR DISCLOSURE OF
22 THE INFORMATION IS PERMITTED BY AN ATTORNEY PURSUANT TO 17 CFR
23 205.3 (d)(2), THE APPLICABLE COLORADO RULES OF PROFESSIONAL
24 CONDUCT, OR OTHERWISE. THE COMPLAINT MUST BE FILED IN CAMERA,
25 MUST REMAIN UNDER SEAL FOR AT LEAST SIXTY-THREE DAYS, AND MUST
26 NOT BE SERVED ON THE DEFENDANT UNTIL THE COURT SO ORDERS. THE
27 STATE, OR A POLITICAL SUBDIVISION WITH THE CONSENT OF THE

1 ATTORNEY GENERAL, MAY ELECT TO INTERVENE AND PROCEED WITH THE
2 ACTION WITHIN SIXTY-THREE DAYS AFTER IT RECEIVES BOTH THE
3 COMPLAINT AND THE MATERIAL EVIDENCE AND INFORMATION. IF BOTH
4 THE STATE AND POLITICAL SUBDIVISION INTERVENE, THE ATTORNEY
5 GENERAL SHALL ASSUME PRIMARY RESPONSIBILITY FOR CONDUCTING THE
6 ACTION.

7 (II) IN DETERMINING WHETHER TO INTERVENE AND PROCEED WITH
8 AN ACTION PURSUANT TO THIS SUBSECTION (4)(b), THE ATTORNEY
9 GENERAL SHALL CONSIDER THE FACTORS DESCRIBED IN SUBSECTION (1)(d)
10 OF THIS SECTION. THE ATTORNEY GENERAL'S DECISION-MAKING PROCESS
11 CONCERNING WHETHER TO INTERVENE AND ANY RECORDS RELATED TO
12 THE DECISION-MAKING PROCESS ARE NOT DISCOVERABLE IN ANY ACTION.

13 (c) THE STATE OR POLITICAL SUBDIVISION MAY, FOR GOOD CAUSE
14 SHOWN, MOVE THE COURT FOR EXTENSIONS OF THE TIME DURING WHICH
15 THE COMPLAINT REMAINS UNDER SEAL PURSUANT TO SUBSECTION (4)(b)
16 OF THIS SECTION. THE MOTION MAY BE SUPPORTED BY AFFIDAVITS OR
17 OTHER SUBMISSIONS IN CAMERA. THE DEFENDANT IS NOT REQUIRED TO
18 RESPOND TO ANY COMPLAINT FILED PURSUANT TO THIS SECTION UNTIL
19 TWENTY-ONE DAYS AFTER THE COMPLAINT IS UNSEALED AND SERVED
20 UPON THE DEFENDANT PURSUANT TO RULE 4 OF THE COLORADO RULES OF
21 CIVIL PROCEDURE.

22 (d) BEFORE THE EXPIRATION OF THE SIXTY-THREE-DAY PERIOD
23 PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION AND ANY EXTENSIONS
24 OBTAINED PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION, THE STATE
25 OR POLITICAL SUBDIVISION SHALL:

26 (I) PROCEED WITH THE ACTION, IN WHICH CASE THE STATE OR
27 POLITICAL SUBDIVISION SHALL CONDUCT THE ACTION; OR

1 (II) NOTIFY THE COURT THAT IT DECLINES TO TAKE OVER THE
2 ACTION, IN WHICH CASE THE PERSON WHO BROUGHT THE ACTION HAS THE
3 RIGHT TO CONTINUE THE ACTION.

4 (e) WHEN A PERSON BRINGS AN ACTION PURSUANT TO THIS
5 SUBSECTION (4), ONLY THE STATE, OR A POLITICAL SUBDIVISION WITH THE
6 CONSENT OF THE ATTORNEY GENERAL, MAY INTERVENE OR BRING A
7 RELATED ACTION BASED ON THE FACTS UNDERLYING THE PENDING
8 ACTION.

9 (f) ANY INFORMATION PROVIDED BY A PERSON TO THE STATE OR
10 POLITICAL SUBDIVISION PURSUANT TO THIS SUBSECTION (4) IS EXEMPT
11 FROM DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS ACT",
12 PART 2 OF ARTICLE 72 OF THIS TITLE 24.

13 (5) **Rights of parties to private actions.** (a) IF THE STATE OR A
14 POLITICAL SUBDIVISION PROCEEDS WITH AN ACTION BROUGHT PURSUANT
15 TO SUBSECTION (4) OF THIS SECTION, IT HAS THE PRIMARY RESPONSIBILITY
16 FOR PROSECUTING THE ACTION AND IS NOT BOUND BY AN ACT OF THE
17 PERSON WHO BROUGHT THE ACTION. THE PERSON HAS THE RIGHT TO
18 CONTINUE AS A PARTY TO THE ACTION, SUBJECT TO THE LIMITATIONS SET
19 FORTH IN SUBSECTION (4)(b) OF THIS SECTION.

20 (b) (I) THE STATE OR POLITICAL SUBDIVISION MAY, AT ANY TIME,
21 DISMISS THE ACTION, IN WHOLE OR IN PART, NOTWITHSTANDING THE
22 OBJECTIONS OF THE PERSON WHO BROUGHT THE ACTION IF THE PERSON
23 HAS BEEN NOTIFIED BY THE STATE OR POLITICAL SUBDIVISION OF THE
24 FILING OF THE MOTION AND THE COURT HAS PROVIDED THE PERSON WITH
25 AN OPPORTUNITY FOR A HEARING ON THE MOTION.

26 (II) THE STATE OR POLITICAL SUBDIVISION MAY SETTLE THE
27 ACTION WITH THE DEFENDANT NOTWITHSTANDING THE OBJECTIONS OF THE

1 PERSON WHO BROUGHT THE ACTION IF THE COURT DETERMINES, AFTER A
2 HEARING, THAT THE PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND
3 REASONABLE UNDER ALL THE CIRCUMSTANCES. UPON A SHOWING OF
4 GOOD CAUSE, THE COURT MAY HOLD THE HEARING IN CAMERA.

5 (III) UPON A SHOWING BY THE STATE OR POLITICAL SUBDIVISION
6 THAT UNRESTRICTED PARTICIPATION DURING THE COURSE OF THE
7 LITIGATION BY THE PERSON WHO BROUGHT THE ACTION WOULD INTERFERE
8 WITH OR UNDULY DELAY THE STATE'S OR POLITICAL SUBDIVISION'S
9 PROSECUTION OF THE CASE, OR WOULD BE REPETITIOUS, IRRELEVANT, OR
10 FOR PURPOSES OF HARASSMENT, THE COURT MAY, IN ITS DISCRETION,
11 IMPOSE LIMITATIONS ON THE PERSON'S PARTICIPATION, INCLUDING BUT
12 NOT LIMITED TO:

13 (A) LIMITING THE NUMBER OF WITNESSES THE PERSON MAY CALL;

14 (B) LIMITING THE LENGTH OF THE TESTIMONY OF THE WITNESSES
15 CALLED BY THE PERSON;

16 (C) LIMITING THE PERSON'S CROSS-EXAMINATION OF WITNESSES;
17 AND

18 (D) OTHERWISE LIMITING THE PARTICIPATION BY THE PERSON IN
19 THE LITIGATION.

20 (IV) UPON A SHOWING BY THE DEFENDANT THAT UNRESTRICTED
21 PARTICIPATION DURING THE COURSE OF THE LITIGATION BY THE PERSON
22 WHO BROUGHT THE ACTION WOULD BE FOR PURPOSES OF HARASSMENT OR
23 WOULD CAUSE THE DEFENDANT UNDUE BURDEN OR UNNECESSARY
24 EXPENSE, THE COURT MAY LIMIT THE PARTICIPATION BY THE PERSON IN
25 THE LITIGATION AS DESCRIBED IN SUBSECTION (5)(b)(III) OF THIS SECTION.

26 (c) THE FACT THAT THE STATE OR POLITICAL SUBDIVISION HAS
27 ELECTED NOT TO PROCEED WITH AN ACTION IS NOT A BASIS FOR A MOTION

1 TO DISMISS, MOTION FOR DETERMINATION OF A QUESTION OF LAW, OR
2 MOTION FOR SUMMARY JUDGMENT, NOR IS IT A BASIS TO DENY THE COURT
3 JURISDICTION OVER THE ACTION, BUT IF THE ATTORNEY GENERAL SUBMITS
4 TO THE COURT THE ATTORNEY GENERAL'S REASONS FOR NOT PROCEEDING
5 WITH THE ACTION, THE COURT MAY CONSIDER THE REASONS WHEN
6 DECIDING A MOTION OR WHETHER THE COURT HAS JURISDICTION. IF THE
7 STATE OR POLITICAL SUBDIVISION SO REQUESTS, IT MUST BE SERVED WITH
8 COPIES OF ALL PLEADINGS FILED IN THE ACTION AND, AT THE STATE'S OR
9 POLITICAL SUBDIVISION'S EXPENSE, BE SUPPLIED WITH COPIES OF ALL
10 DEPOSITION TRANSCRIPTS. WHEN THE PERSON PROCEEDS WITH THE
11 ACTION, THE COURT, WITHOUT LIMITING THE STATUS AND RIGHTS OF THE
12 PERSON, MAY NEVERTHELESS PERMIT THE STATE OR POLITICAL
13 SUBDIVISION TO INTERVENE AT A LATER DATE UPON A SHOWING OF GOOD
14 CAUSE.

15 (d) REGARDLESS OF WHETHER THE STATE OR POLITICAL
16 SUBDIVISION PROCEEDS WITH THE ACTION, UPON A SHOWING BY THE STATE
17 OR POLITICAL SUBDIVISION THAT CERTAIN ACTIONS OF DISCOVERY BY THE
18 PERSON WHO BROUGHT THE ACTION WOULD INTERFERE WITH THE STATE'S
19 OR POLITICAL SUBDIVISION'S INVESTIGATION OR PROSECUTION OF A
20 CRIMINAL OR CIVIL MATTER ARISING OUT OF THE SAME FACTS, THE COURT
21 MAY STAY THE DISCOVERY FOR A PERIOD OF NOT MORE THAN SIXTY-THREE
22 DAYS. THE SHOWING BY THE STATE OR POLITICAL SUBDIVISION MUST BE
23 CONDUCTED IN CAMERA. THE COURT MAY EXTEND THE SIXTY-THREE-DAY
24 PERIOD UPON A FURTHER SHOWING THAT THE STATE OR POLITICAL
25 SUBDIVISION HAS PURSUED THE CRIMINAL OR CIVIL INVESTIGATION OR
26 PROCEEDINGS WITH REASONABLE DILIGENCE AND THAT ANY PROPOSED
27 DISCOVERY IN THE CIVIL ACTION WILL INTERFERE WITH THE ONGOING

1 CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDINGS.

2 (e) NOTWITHSTANDING SUBSECTION (4) OF THIS SECTION, THE
3 STATE OR POLITICAL SUBDIVISION MAY ELECT TO PURSUE ITS CLAIM
4 THROUGH ANY ALTERNATE REMEDY AVAILABLE TO THE STATE OR
5 POLITICAL SUBDIVISION. IF AN ALTERNATE REMEDY IS PURSUED IN
6 ANOTHER PROCEEDING, THE PERSON WHO BROUGHT THE ACTION
7 PURSUANT TO SUBSECTION (4) OF THIS SECTION HAS THE SAME RIGHTS IN
8 THAT PROCEEDING AS THE PERSON WOULD HAVE HAD IF THE ACTION HAD
9 CONTINUED PURSUANT TO THIS SECTION. ANY FINDING OF FACT OR
10 CONCLUSION OF LAW MADE IN THE OTHER PROCEEDING THAT HAS BECOME
11 FINAL IS BINDING ON ALL PARTIES TO AN ACTION BROUGHT PURSUANT TO
12 THIS SECTION. FOR PURPOSES OF THIS SUBSECTION (5)(e), A FINDING OR
13 CONCLUSION IS FINAL IF IT HAS BEEN FINALLY DETERMINED ON APPEAL TO
14 THE APPROPRIATE COURT OF THE STATE, IF ALL TIME FOR FILING SUCH AN
15 APPEAL WITH RESPECT TO THE FINDING OR CONCLUSION HAS EXPIRED, OR
16 IF THE FINDING OR CONCLUSION IS NOT SUBJECT TO JUDICIAL REVIEW.

17 (6) **Award to a person who brings an action.** (a) (I) SUBJECT TO
18 SUBSECTION (6)(a)(II) OF THIS SECTION, IF THE STATE OR A POLITICAL
19 SUBDIVISION PROCEEDS WITH AN ACTION BROUGHT BY A PERSON
20 PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE COURT SHALL AWARD
21 THE PERSON AT LEAST FIFTEEN PERCENT BUT NOT MORE THAN
22 TWENTY-FIVE PERCENT OF THE PROCEEDS RECEIVED FROM THE ACTION OR
23 SETTLEMENT OF THE CLAIM, DEPENDING UPON THE EXTENT TO WHICH THE
24 PERSON SUBSTANTIALLY CONTRIBUTED TO THE INVESTIGATION AND
25 PROSECUTION OF THE ACTION.

26 (II) IF THE COURT FINDS THE ACTION TO BE BASED PRIMARILY ON
27 DISCLOSURES OF SPECIFIC INFORMATION, OTHER THAN INFORMATION

1 PROVIDED BY THE PERSON WHO BROUGHT THE ACTION, RELATING TO
2 ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, CIVIL, OR
3 ADMINISTRATIVE HEARING; IN A LEGISLATIVE, ADMINISTRATIVE, OR
4 FORMAL AUDIT REPORT, HEARING, OR INVESTIGATION; OR FROM THE NEWS
5 MEDIA, THE COURT MAY AWARD TO THE PERSON SUCH SUMS AS IT
6 CONSIDERS APPROPRIATE BUT IN NO CASE MORE THAN TEN PERCENT OF
7 THE PROCEEDS. IN MAKING ITS DETERMINATION, THE COURT SHALL
8 CONSIDER THE SIGNIFICANCE OF THE INFORMATION PROVIDED BY THE
9 PERSON AND THE ROLE OF THE PERSON IN ADVANCING THE CASE TO
10 LITIGATION.

11 (III) ANY PAYMENT TO A PERSON MADE PURSUANT TO THIS
12 SUBSECTION (6)(a) MUST BE MADE FROM THE PROCEEDS. IN ADDITION TO
13 AN AWARD MADE PURSUANT TO SUBSECTION (6)(a)(I) OR (6)(a)(II) OF THIS
14 SECTION, THE COURT SHALL AWARD THE PERSON AN AMOUNT FOR
15 REASONABLE EXPENSES THAT THE COURT FINDS TO HAVE BEEN
16 NECESSARILY INCURRED, PLUS REASONABLE ATTORNEY FEES AND COSTS.
17 THE COURT SHALL AWARD ALL OF THE EXPENSES, FEES, AND COSTS
18 AGAINST THE DEFENDANT.

19 (IV) IF THE PERSON WHO BROUGHT THE ACTION IS A GOVERNMENT
20 EMPLOYEE WHO, IN THE COURSE OF THE PERSON'S WORK FOR THE STATE OR
21 A POLITICAL SUBDIVISION, GAINS KNOWLEDGE OF ANY INFORMATION THAT
22 FORMS, IN WHOLE OR IN PART, THE BASIS OF THE PERSON'S CLAIM, THE
23 COURT SHALL AWARD TO THE STATE OR POLITICAL SUBDIVISION THAT
24 EMPLOYS THE PERSON THE AMOUNT THAT WOULD OTHERWISE BE
25 AWARDED TO THE PERSON PURSUANT TO THIS SUBSECTION (6).

26 (b) IF THE STATE OR POLITICAL SUBDIVISION DOES NOT INTERVENE
27 IN AND PROCEED WITH AN ACTION PURSUANT TO SUBSECTION (4)(b) OF

1 THIS SECTION, THE PERSON PREVAILING IN THE ACTION OR SETTling THE
2 CLAIM MUST RECEIVE AN AMOUNT THAT THE COURT DECIDES IS
3 REASONABLE FOR COLLECTING THE CIVIL PENALTY AND DAMAGES. THE
4 AMOUNT MUST BE AT LEAST TWENTY-FIVE PERCENT BUT NOT MORE THAN
5 THIRTY PERCENT OF THE PROCEEDS RECEIVED FROM THE ACTION OR
6 SETTLEMENT AND MUST BE PAID OUT OF THE PROCEEDS. THE COURT SHALL
7 AWARD THE PERSON AN AMOUNT FOR REASONABLE EXPENSES THAT THE
8 COURT FINDS TO HAVE BEEN NECESSARILY INCURRED, PLUS REASONABLE
9 ATTORNEY FEES AND COSTS. THE COURT SHALL AWARD ALL OF THE
10 EXPENSES, FEES, AND COSTS AGAINST THE DEFENDANT.

11 (c) REGARDLESS OF WHETHER THE STATE OR A POLITICAL
12 SUBDIVISION INTERVENES IN AND PROCEEDS WITH AN ACTION PURSUANT
13 TO SUBSECTION (4)(b) OF THIS SECTION, IF THE COURT FINDS THAT THE
14 ACTION WAS BROUGHT BY A PERSON WHO PLANNED AND INITIATED THE
15 VIOLATION OF SECTION 24-31-1203 UPON WHICH THE ACTION WAS
16 BROUGHT, THE COURT MAY, TO THE EXTENT THE COURT CONSIDERS
17 APPROPRIATE, REDUCE THE SHARE OF THE PROCEEDS OF THE ACTION THAT
18 THE PERSON WOULD OTHERWISE RECEIVE PURSUANT TO THIS SUBSECTION
19 (6), TAKING INTO ACCOUNT THE ROLE OF THE PERSON IN ADVANCING THE
20 CASE TO LITIGATION AND ANY RELEVANT CIRCUMSTANCES PERTAINING TO
21 THE VIOLATION. IF THE PERSON IS CONVICTED OF CRIMINAL CONDUCT
22 ARISING FROM HIS OR HER ROLE IN THE VIOLATION OF SECTION
23 24-31-1203, THE COURT SHALL DISMISS THE PERSON FROM THE CIVIL
24 ACTION AND THE PERSON MUST NOT RECEIVE ANY SHARE OF THE
25 PROCEEDS OF THE ACTION. SUCH DISMISSAL DOES NOT PREJUDICE THE
26 RIGHT OF THE STATE OR POLITICAL SUBDIVISION TO CONTINUE THE ACTION.

27 (d) IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT

1 INTERVENE IN AND PROCEED WITH AN ACTION PURSUANT TO SUBSECTION
2 (4)(b) OF THIS SECTION AND THE PERSON WHO BROUGHT THE ACTION
3 PURSUES THE ACTION, THE COURT MAY AWARD TO THE DEFENDANT
4 REASONABLE ATTORNEY FEES AND EXPENSES IF THE DEFENDANT PREVAILS
5 IN THE ACTION AND THE COURT FINDS THAT THE CLAIM OF THE PERSON
6 WAS CLEARLY FRIVOLOUS, CLEARLY VEXATIOUS, OR BROUGHT PRIMARILY
7 FOR PURPOSES OF HARASSMENT.

8 (7) **Certain actions barred.** (a) A COURT DOES NOT HAVE
9 JURISDICTION OVER AN ACTION BROUGHT PURSUANT TO THIS SECTION:

10 (I) AGAINST A SERVING MEMBER OF THE GENERAL ASSEMBLY, A
11 MEMBER OF THE STATE JUDICIARY, AN EXECUTIVE DIRECTOR OF A STATE
12 AGENCY, OR AN ELECTED OFFICIAL IN THE EXECUTIVE BRANCH OF THE
13 STATE OF COLORADO ACTING IN THE MEMBER'S, EXECUTIVE DIRECTOR'S,
14 OR OFFICIAL'S OFFICIAL CAPACITY; OR

15 (II) IF THE ACTION IS BROUGHT BY A PERSON PURSUANT TO
16 SUBSECTION (4) OF THIS SECTION AND IS BASED ON EVIDENCE OR
17 INFORMATION KNOWN TO THE STATE OR POLITICAL SUBDIVISION WHEN THE
18 ACTION WAS BROUGHT.

19 (b) A PERSON MAY NOT BRING AN ACTION PURSUANT TO
20 SUBSECTION (4) OF THIS SECTION THAT IS BASED UPON ALLEGATIONS OR
21 TRANSACTIONS THAT ARE THE SUBJECT OF A CIVIL SUIT IN A COURT OF THIS
22 STATE OR AN ADMINISTRATIVE CIVIL MONEY PENALTY PROCEEDING IN
23 WHICH THE STATE OR A POLITICAL SUBDIVISION IS ALREADY A PARTY.

24 (c) (I) A COURT SHALL DISMISS AN ACTION OR CLAIM BROUGHT
25 PURSUANT TO SUBSECTION (4) OF THIS SECTION IF THE ACTION PURSUED BY
26 THE PERSON IS BASED UPON SUBSTANTIALLY THE SAME ALLEGATIONS OR
27 TRANSACTIONS PUBLICLY DISCLOSED IN A CRIMINAL, CIVIL, OR

1 ADMINISTRATIVE HEARING; IN A LEGISLATIVE, ADMINISTRATIVE, OR
2 FORMAL AUDIT REPORT, HEARING, OR INVESTIGATION; OR FROM THE NEWS
3 MEDIA, UNLESS:

4 (A) THE STATE OR A POLITICAL SUBDIVISION INTERVENES AND
5 PROSECUTES THE ACTION PURSUANT TO SUBSECTION (4)(b) OF THIS
6 SECTION;

7 (B) THE STATE OR POLITICAL SUBDIVISION OPPOSES DISMISSAL; OR

8 (C) THE PERSON WHO BROUGHT THE ACTION IS AN ORIGINAL
9 SOURCE OF THE INFORMATION THAT IS THE BASIS FOR THE ACTION.

10 (II) AS USED IN THIS SUBSECTION (7)(c), "ORIGINAL SOURCE"
11 MEANS AN INDIVIDUAL WHO:

12 (A) PRIOR TO PUBLIC DISCLOSURE PURSUANT TO SUBSECTION
13 (7)(c)(I) OF THIS SECTION, HAS VOLUNTARILY DISCLOSED TO THE STATE OR
14 POLITICAL SUBDIVISION THE INFORMATION ON WHICH THE ALLEGATIONS
15 OR TRANSACTIONS IN A CLAIM ARE BASED; OR

16 (B) HAS KNOWLEDGE THAT IS INDEPENDENT OF AND MATERIALLY
17 ADDS TO THE PUBLICLY DISCLOSED ALLEGATIONS OR TRANSACTIONS AND
18 HAS VOLUNTARILY PROVIDED THE INFORMATION TO THE STATE OR
19 POLITICAL SUBDIVISION BEFORE FILING AN ACTION PURSUANT TO
20 SUBSECTION (4) OF THIS SECTION.

21 (8) **State or political subdivision not liable for certain**
22 **expenses.** THE STATE OR A POLITICAL SUBDIVISION IS NOT LIABLE FOR
23 EXPENSES THAT A PERSON INCURS IN BRINGING AN ACTION PURSUANT TO
24 SUBSECTION (4) OF THIS SECTION.

25 (9) **Private action for retaliation.** (a) AS USED IN THIS
26 SUBSECTION (9), UNLESS THE CONTEXT OTHERWISE REQUIRES:

27 (I) "CONFIDENTIAL INFORMATION" INCLUDES DOCUMENTS;

1 E-MAILS AND OTHER ELECTRONIC DATA; MEDICAL RECORDS; FINANCIAL
2 RECORDS; TRADE SECRET INFORMATION; INTELLECTUAL PROPERTY; OR
3 INFORMATION THAT IS SUBJECT TO AN EMPLOYMENT AGREEMENT,
4 CONFIDENTIALITY AGREEMENT, OR NONDISCLOSURE AGREEMENT OR FOR
5 WHICH THE PERSON WHO BROUGHT THE ACTION PURSUANT TO SUBSECTION
6 (4) OF THIS SECTION HAS A FIDUCIARY OBLIGATION TO MAINTAIN AS
7 CONFIDENTIAL. CONFIDENTIAL INFORMATION DOES NOT INCLUDE
8 INFORMATION THAT IS PROTECTED BY THE DEFENDANT'S
9 ATTORNEY-CLIENT PRIVILEGE UNLESS THE PRIVILEGE WAS WAIVED,
10 INADVERTENTLY OR OTHERWISE, BY THE PERSON WHO HOLDS THE
11 PRIVILEGE; AN EXCEPTION TO THE PRIVILEGE APPLIES; OR DISCLOSURE OF
12 THE INFORMATION IS PERMITTED BY AN ATTORNEY PURSUANT TO 17 CFR
13 205.3 (d)(2), THE APPLICABLE COLORADO RULES OF PROFESSIONAL
14 CONDUCT, OR OTHERWISE.

15 (II) "LAWFUL ACTS" INCLUDES, BUT IS NOT LIMITED TO, THE
16 FOLLOWING:

17 (A) CONDUCTING OR ASSISTING WITH AN INVESTIGATION FOR,
18 INITIATION OF, TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO
19 BE FILED PURSUANT TO THIS SECTION, OR CONDUCTING OR ASSISTING WITH
20 AN INVESTIGATION WHEN THERE IS A REASONABLE BELIEF OF A POTENTIAL
21 VIOLATION OF THIS SECTION;

22 (B) MEETING WITH POTENTIAL OR RETAINED COUNSEL OR AGENTS
23 OR REPRESENTATIVES OF THE STATE OR POLITICAL SUBDIVISION ABOUT
24 THE MATTER THAT IS THE SUBJECT OF AN ACTION FILED OR TO BE FILED
25 PURSUANT TO THIS SECTION;

26 (C) PROVIDING THE INDIVIDUAL'S COUNSEL OR AGENTS OR
27 REPRESENTATIVES OF THE STATE OR THE POLITICAL SUBDIVISION WITH

1 CONFIDENTIAL INFORMATION; OR

2 (D) FILING AN ACTION PURSUANT TO THIS SECTION.

3 (b) AN EMPLOYEE, CONTRACTOR, OR AGENT IS ENTITLED TO ALL
4 RELIEF NECESSARY TO MAKE THAT INDIVIDUAL WHOLE IF THE INDIVIDUAL
5 IS DISCHARGED, DEMOTED, SUSPENDED, THREATENED, HARASSED,
6 INTIMIDATED, SUED, DEFAMED, BLACKLISTED, OR IN ANY OTHER MANNER
7 RETALIATED AGAINST OR DISCRIMINATED AGAINST IN THE TERMS AND
8 CONDITIONS OF THE INDIVIDUAL'S EMPLOYMENT, CONTRACT, BUSINESS, OR
9 PROFESSION BY THE DEFENDANT OR BY ANY OTHER PERSON BECAUSE OF
10 LAWFUL ACTS DONE BY THE INDIVIDUAL OR ASSOCIATED OTHERS IN
11 FURTHERANCE OF AN ACTION BROUGHT PURSUANT TO THIS SECTION OR IN
12 FURTHERANCE OF AN EFFORT TO STOP ANY VIOLATION, OR WHAT THE
13 INDIVIDUAL REASONABLY BELIEVES TO BE A VIOLATION, OF SECTION
14 24-31-1203.

15 (c) (I) IF THE DISCLOSURE OF CONFIDENTIAL INFORMATION IS IN
16 FURTHERANCE OF AN ACTION BROUGHT PURSUANT TO THIS SECTION OR IN
17 FURTHERANCE OF AN EFFORT TO STOP ANY VIOLATION, OR WHAT THE
18 INDIVIDUAL REASONABLY BELIEVES TO BE A VIOLATION, OF SECTION
19 24-31-1203, AN INDIVIDUAL HAS A PRIVILEGE TO DISCLOSE THE
20 CONFIDENTIAL INFORMATION TO:

21 (A) THE INDIVIDUAL'S COUNSEL;

22 (B) A PERSON WITH WHOM THE INDIVIDUAL HAS A STATUTORY OR
23 COMMON LAW PRIVILEGE; OR

24 (C) AN AGENT OR AUTHORIZED REPRESENTATIVE OF THE STATE OR
25 POLITICAL SUBDIVISION.

26 (II) THE INDIVIDUAL'S DISCLOSURE OF CONFIDENTIAL
27 INFORMATION TO THE INDIVIDUAL'S COUNSEL OR TO AN AGENT OR

1 AUTHORIZED REPRESENTATIVE OF THE STATE OR POLITICAL SUBDIVISION
2 DOES NOT CONSTITUTE A WAIVER BY A DEFENDANT OF ANY RIGHT OR
3 PRIVILEGE THAT THE DEFENDANT MAY BE ENTITLED TO INVOKE.

4 (d) (I) AN INDIVIDUAL SEEKING RELIEF PURSUANT TO THIS
5 SUBSECTION (9) MAY SEEK RELIEF BY:

6 (A) FILING A MOTION IN THE ACTION BROUGHT PURSUANT TO
7 SUBSECTION (4) OF THIS SECTION; OR

8 (B) BRINGING A SEPARATE ACTION IN AN APPROPRIATE COURT OF
9 THE STATE FOR THE RELIEF PROVIDED PURSUANT TO THIS SUBSECTION (9).

10 (II) AN INDIVIDUAL WHO SEEKS RELIEF PURSUANT TO THIS
11 SUBSECTION (9) IS ENTITLED TO ALL RELIEF NECESSARY TO MAKE THE
12 INDIVIDUAL WHOLE. THE RELIEF MUST INCLUDE, BUT IS NOT LIMITED TO:

13 (A) IF THE INDIVIDUAL IS AN EMPLOYEE, REINSTATEMENT WITH
14 THE SAME SENIORITY STATUS THE INDIVIDUAL WOULD HAVE HAD BUT FOR
15 THE DISCRIMINATION, TWICE THE AMOUNT OF BACK PAY, AND INTEREST ON
16 THE BACK PAY;

17 (B) IF THE INDIVIDUAL IS A CONTRACTOR, SUBCONTRACTOR, OR
18 INDEPENDENT CONTRACTOR, REINSTATEMENT OF A CONTRACT OR
19 SUBCONTRACT THAT WAS CANCELED, NONRENEWED, OR MODIFIED
20 BECAUSE OF RETALIATION, WITH ALL COMPENSATION OR CONTRACTUAL
21 CONSIDERATION THAT THE INDIVIDUAL WOULD HAVE RECEIVED HAD THE
22 CONTRACT OR SUBCONTRACT NOT BEEN CANCELED, NONRENEWED, OR
23 MODIFIED; AND

24 (C) COMPENSATION FOR ANY SPECIAL DAMAGES SUSTAINED AS A
25 RESULT OF THE DISCRIMINATION OR RETALIATION, INCLUDING LITIGATION
26 COSTS AND REASONABLE ATTORNEY FEES.

27 (e) (I) THE COURT SHALL AWARD THE INDIVIDUAL NOT LESS THAN

1 THE DAMAGES DESCRIBED IN SUBSECTION (9)(d)(II) OF THIS SECTION IF A
2 DEFENDANT, EMPLOYER, OR OTHER PERSON RETALIATES AGAINST AN
3 INDIVIDUAL BY BRINGING ANOTHER ACTION AGAINST THE INDIVIDUAL FOR:

4 (A) ACTS LATER DETERMINED TO BE LAWFUL ACTS;

5 (B) DISCLOSURE OF CONFIDENTIAL INFORMATION TO COUNSEL OR
6 AN AGENT OR REPRESENTATIVE OF THE STATE OR POLITICAL SUBDIVISION
7 PURSUANT TO THIS SUBSECTION (9);

8 (C) VIOLATING AN EMPLOYMENT CONTRACT, CONFIDENTIALITY
9 AGREEMENT, NONDISCLOSURE AGREEMENT, OR OTHER AGREEMENT; OR

10 (D) COMMITTING ANY OTHER TORT OR BREACH OF DUTY AND THE
11 COURT HEARING THE ACTION DETERMINES BY A PREPONDERANCE OF THE
12 EVIDENCE THAT THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT
13 THE LAWSUIT AGAINST THE INDIVIDUAL ██████ FOR THE PURPOSE OF
14 RETALIATING AGAINST THE INDIVIDUAL.

15 (II) IN ADDITION TO ANY OTHER REMEDY OR SHARE OF THE
16 PROCEEDS OF THE ACTION TO WHICH THE INDIVIDUAL IS ENTITLED
17 PURSUANT TO THIS SUBSECTION (9) AND REGARDLESS OF WHETHER THE
18 INDIVIDUAL IS DETERMINED TO BE ENTITLED TO SHARE IN THE PROCEEDS
19 OF THE ACTION OR CLAIM FILED PURSUANT TO SUBSECTION (4) OF THIS
20 SECTION, IN ADDITION TO ANY OTHER CONSEQUENTIAL DAMAGES
21 PERMITTED BY LAW, THE DAMAGES FOR A VIOLATION OF THIS SUBSECTION
22 (9)(e) MUST BE NOT LESS THAN:

23 (A) TWICE THE INDIVIDUAL'S ACTUAL ATTORNEY FEES AND COSTS
24 IF THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT THE LAWSUIT
25 AGAINST THE INDIVIDUAL IN A COURT IN THE STATE OF COLORADO; OR

26 (B) THREE TIMES THE INDIVIDUAL'S ACTUAL ATTORNEY FEES AND
27 COSTS IF THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT THE

1 LAWSUIT IN A JURISDICTION OUTSIDE OF COLORADO.

2 (f) (I) THE COURT HEARING THE ACTION BROUGHT PURSUANT TO
3 SUBSECTION (4) OF THIS SECTION HAS JURISDICTION TO HEAR A PRIVATE
4 ACTION OR MOTION FOR RETALIATION BROUGHT PURSUANT TO THIS
5 SUBSECTION (9).

6 (II) UPON MOTION BY THE INDIVIDUAL, THE VENUE OF AN ACTION
7 FILED IN ANOTHER COURT OF THE STATE OF COLORADO AGAINST THE
8 INDIVIDUAL BY THE DEFENDANT, THE EMPLOYER OF THE PERSON WHO
9 BROUGHT THE ACTION PURSUANT TO SUBSECTION (4) OF THIS SECTION, OR
10 OTHER PERSON ARISING OUT OF THE SUBJECT MATTER OF THE ACTION
11 BROUGHT PURSUANT TO SUBSECTION (4) OF THIS SECTION MUST BE
12 CHANGED TO THE COURT HEARING THE ACTION BROUGHT PURSUANT TO
13 SUBSECTION (4) OF THIS SECTION.

14 (10) **Discovery in other actions.** (a) If a PERSON WHO BRINGS AN
15 ACTION PURSUANT TO SUBSECTION (4) OF THIS SECTION IS A PARTY TO OR
16 WITNESS IN AN ACTION OTHER THAN AN ACTION BROUGHT PURSUANT TO
17 SUBSECTION (4) OF THIS SECTION, REFERRED TO IN THIS SUBSECTION (10)
18 AS AN "OTHER ACTION", AND A PARTY IN THE OTHER ACTION SEEKS
19 DISCOVERY FROM THE PERSON OF INFORMATION ABOUT OTHER LAWSUITS,
20 WHICH DISCOVERY WOULD REQUIRE THE PERSON TO DISCLOSE
21 INFORMATION ABOUT AN ACTION FILED PURSUANT TO SUBSECTION (4) OF
22 THIS SECTION WHILE THAT ACTION IS STILL UNDER SEAL, THE PERSON
23 SHALL:

24 (I) WITHIN A REASONABLE TIME, NOTIFY THE STATE OR POLITICAL
25 SUBDIVISION INVESTIGATING THE ACTION BROUGHT PURSUANT TO
26 SUBSECTION (4) OF THIS SECTION OF THE PENDING DISCOVERY REQUEST;
27 AND

1 (II) RESPOND TO THE DISCOVERY REQUEST BY STATING ONLY THAT
2 THE MATTER IS CONFIDENTIAL, WITHOUT FURTHER ELABORATION, AND
3 SHALL MAINTAIN THAT RESPONSE UNTIL THE STATE OR POLITICAL
4 SUBDIVISION ELECTS TO PROCEED OR NOT PROCEED WITH THE ACTION
5 BROUGHT PURSUANT TO SUBSECTION (4) OF THIS SECTION OR UNTIL THE
6 COURT LIFTS THE SEAL.

7 (b) IF NECESSARY, IN ANY OTHER ACTION, A PERSON WHO
8 BROUGHT THE ACTION PURSUANT TO SUBSECTION (4) OF THIS SECTION,
9 THE ATTORNEY GENERAL, OR THE PROSECUTING AUTHORITY MAY FILE AN
10 EX PARTE MOTION, IN CAMERA AND UNDER SEAL, SEEKING A PROTECTIVE
11 ORDER OR AN EXTENSION OF TIME FOR THE PERSON TO RESPOND TO A
12 DISCOVERY REQUEST. IF A PARTY IN THE OTHER ACTION MOVES TO COMPEL
13 AN ANSWER TO THE DISCOVERY, THE PERSON WHO BROUGHT THE ACTION
14 PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL FILE, EX PARTE AND
15 IN CAMERA, A RESPONSE TO THE MOTION TO COMPEL, IN WHICH THE
16 ATTORNEY GENERAL OR PROSECUTING AUTHORITY MAY JOIN. THE
17 RESPONSE TO THE MOTION TO COMPEL MUST REMAIN UNDER SEAL UNTIL
18 SUCH TIME AS THE STATE OR POLITICAL SUBDIVISION ELECTS TO PROCEED
19 OR NOT PROCEED WITH THE ACTION OR UNTIL SUCH TIME AS THE COURT
20 LIFTS THE SEAL.

21 (c) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (10)
22 TO THE CONTRARY, INFORMATION ABOUT AN ACTION FILED PURSUANT TO
23 SUBSECTION (4) OF THIS SECTION THAT IS PROTECTED BY THE
24 DEFENDANT'S ATTORNEY-CLIENT PRIVILEGE IS NOT DISCOVERABLE IN ANY
25 OTHER ACTION UNLESS THE PRIVILEGE WAS WAIVED, INADVERTENTLY OR
26 OTHERWISE, BY THE PERSON WHO HOLDS THE PRIVILEGE; AN EXCEPTION
27 TO THE PRIVILEGE APPLIES; OR DISCLOSURE OF THE INFORMATION IS

1 PERMITTED BY AN ATTORNEY PURSUANT TO 17 CFR 205.3 (d)(2), THE
2 APPLICABLE COLORADO RULES OF PROFESSIONAL CONDUCT, OR
3 OTHERWISE.

4 **24-31-1205. False claims action procedures - limitation on**
5 **action - standard of proof.** (1) A CIVIL ACTION PURSUANT TO SECTION
6 24-31-1204 MAY NOT BE BROUGHT AFTER THE LATER OF:

7 (a) MORE THAN SIX YEARS AFTER THE DATE ON WHICH THE
8 VIOLATION OF SECTION 24-31-1203 IS COMMITTED OR THE DATE ON WHICH
9 THE LAST IN A SERIES OF SUCH ACTS OR PRACTICES OCCURRED,
10 WHICHEVER IS LATER; OR

11 (b) MORE THAN THREE YEARS AFTER THE DATE ON WHICH FACTS
12 MATERIAL TO THE RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD
13 HAVE BEEN KNOWN BY THE OFFICIAL OF THE STATE OR A POLITICAL
14 SUBDIVISION CHARGED WITH RESPONSIBILITY TO ACT IN THE
15 CIRCUMSTANCES, BUT IN NO EVENT MORE THAN TEN YEARS AFTER THE
16 DATE ON WHICH THE VIOLATION OF SECTION 24-31-1203 WAS COMMITTED.

17 (2) (a) IF THE STATE OR A POLITICAL SUBDIVISION ELECTS TO
18 INTERVENE AND PROCEED WITH AN ACTION BROUGHT PURSUANT TO
19 SECTION 24-31-1204, THE STATE OR POLITICAL SUBDIVISION MAY FILE ITS
20 OWN COMPLAINT OR AMEND THE ORIGINAL COMPLAINT TO:

21 (I) CLARIFY AND ADD DETAIL, AND ADD ADDITIONAL DEFENDANTS,
22 TO THE CLAIMS IN WHICH THE STATE OR POLITICAL SUBDIVISION IS
23 INTERVENING; AND

24 (II) ADD ANY ADDITIONAL CLAIMS AND DEFENDANTS WITH
25 RESPECT TO WHICH THE STATE OR POLITICAL SUBDIVISION CONTENDS IT IS
26 ENTITLED TO RELIEF.

27 (b) FOR STATUTE OF LIMITATIONS PURPOSES, ANY PLEADINGS BY

1 THE STATE OR POLITICAL SUBDIVISION RELATE BACK TO THE FILING DATE
2 OF THE ORIGINAL COMPLAINT FILED BY A PERSON PURSUANT TO SECTION
3 24-31-1204 (4), TO THE EXTENT THAT THE STATE'S OR POLITICAL
4 SUBDIVISION'S CLAIM ARISES OUT OF THE CONDUCT, TRANSACTIONS, OR
5 OCCURRENCES SET FORTH, OR ATTEMPTED TO BE SET FORTH, IN THE
6 ORIGINAL COMPLAINT.

7 (3) IN AN ACTION BROUGHT PURSUANT TO SECTION 24-31-1204,
8 THE STATE, POLITICAL SUBDIVISION, OR PERSON WHO BROUGHT THE
9 ACTION PURSUANT TO SECTION 24-31-1204 (4) MUST PROVE ALL
10 ESSENTIAL ELEMENTS OF THE CAUSE OF ACTION, INCLUDING DAMAGES, BY
11 A PREPONDERANCE OF THE EVIDENCE.

12 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
13 COLORADO RULES OF CRIMINAL PROCEDURE, OR THE COLORADO RULES OF
14 EVIDENCE, A FINAL JUDGMENT RENDERED IN FAVOR OF THE STATE OR A
15 POLITICAL SUBDIVISION IN A CRIMINAL PROCEEDING CHARGING FRAUD OR
16 FALSE STATEMENTS, WHETHER UPON A VERDICT AFTER TRIAL OR UPON A
17 PLEA OF GUILTY OR NOLO CONTENDERE, SHALL ESTOP THE DEFENDANT
18 FROM DENYING THE ESSENTIAL ELEMENTS OF THE OFFENSE IN ANY ACTION
19 THAT INVOLVES THE SAME TRANSACTION AS IN THE CRIMINAL PROCEEDING
20 AND THAT IS BROUGHT PURSUANT TO SECTION 24-31-1204.

21 **24-31-1206. Jurisdiction.** AN ACTION DESCRIBED IN THIS PART 12
22 MAY BE BROUGHT IN ANY JUDICIAL DISTRICT IN WHICH THE DEFENDANT
23 OR, IN THE CASE OF MULTIPLE DEFENDANTS, ANY ONE DEFENDANT CAN BE
24 FOUND, RESIDES, OR TRANSACTS BUSINESS, OR IN WHICH AN ACT
25 PROSCRIBED BY SECTION 24-31-1203 OCCURRED. A PERSON BRINGING AN
26 ACTION PURSUANT TO THIS PART 12 SHALL FILE THE COMPLAINT IN A
27 DISTRICT COURT OR A FEDERAL COURT WITH JURISDICTION OVER THE

1 ACTION AND SHALL NOT FILE THE COMPLAINT IN ANY OTHER COURT. THE
2 APPROPRIATE DISTRICT COURT SHALL ISSUE A SUMMONS AS REQUIRED BY
3 THE COLORADO RULES OF CIVIL PROCEDURE AND SERVE THE SUMMONS AT
4 ANY PLACE.

5 **24-31-1207. False claims civil investigation demands.**

6 (1) WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE
7 THAT ANY PERSON, WHETHER IN THIS STATE OR ELSEWHERE, HAS ENGAGED
8 IN OR IS ENGAGING IN ANY VIOLATION OF SECTION 24-31-1203, THE
9 ATTORNEY GENERAL MAY:

10 (a) REQUEST THE PERSON FILE A STATEMENT OR REPORT IN
11 WRITING UNDER OATH OR OTHERWISE, ON FORMS PRESCRIBED BY THE
12 ATTORNEY GENERAL, AS TO ALL FACTS AND CIRCUMSTANCES CONCERNING
13 THE ALLEGED VIOLATIONS BY THE PERSON AND ANY OTHER DATA AND
14 INFORMATION THE ATTORNEY GENERAL DEEMS NECESSARY; EXCEPT THAT
15 THE PERSON IS NOT REQUIRED TO DISCLOSE ANY INFORMATION THAT IS
16 PROTECTED BY THE PERSON'S ATTORNEY-CLIENT PRIVILEGE UNLESS THE
17 PRIVILEGE WAS WAIVED, INADVERTENTLY OR OTHERWISE, BY THE PERSON
18 WHO HOLDS THE PRIVILEGE; AN EXCEPTION TO THE PRIVILEGE APPLIES; OR
19 DISCLOSURE OF THE INFORMATION IS PERMITTED BY AN ATTORNEY
20 PURSUANT TO 17 CFR 205.3 (d)(2), THE APPLICABLE COLORADO RULES OF
21 PROFESSIONAL CONDUCT, OR OTHERWISE.

22 (b) EXAMINE UNDER OATH ANY PERSON IN CONNECTION WITH THE
23 ALLEGED VIOLATIONS;

24 (c) EXAMINE ANY PROPERTY OR SAMPLE THEREOF, OR ANY
25 NONPRIVILEGED RECORD, BOOK, DOCUMENT, ACCOUNT, OR PAPER THE
26 ATTORNEY GENERAL DEEMS NECESSARY;

27 (d) MAKE TRUE COPIES, AT THE EXPENSE OF THE ATTORNEY

1 GENERAL, OF ANY NONPRIVILEGED RECORD, BOOK, DOCUMENT, ACCOUNT,
2 OR PAPER EXAMINED PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION,
3 WHICH COPIES MAY BE OFFERED INTO EVIDENCE IN LIEU OF THE ORIGINALS
4 THEREOF IN AN ACTION BROUGHT PURSUANT TO THIS PART 12; AND

5 (e) PURSUANT TO ANY ORDER OF ANY DISTRICT COURT, IMPOUND
6 ANY SAMPLE OF PROPERTY THAT IS MATERIAL TO ANY ALLEGED VIOLATION
7 OF THIS PART 12 AND RETAIN THE SAME IN THE ATTORNEY GENERAL'S
8 POSSESSION UNTIL COMPLETION OF ALL PROCEEDINGS UNDERTAKEN
9 PURSUANT TO THIS PART 12. A DISTRICT COURT SHALL NOT ISSUE AN
10 ORDER DESCRIBED IN THIS SUBSECTION (1)(e) WITHOUT GIVING FULL
11 OPPORTUNITY TO THE ACCUSED TO BE HEARD AND UNLESS THE ATTORNEY
12 GENERAL HAS PROVEN BY CLEAR AND CONVINCING EVIDENCE THAT THE
13 ORDER WILL NOT IMPAIR THE BUSINESS ACTIVITIES OF THE PERSON TO
14 WHOM THE ORDER IS DIRECTED.

15 (2) WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO
16 BELIEVE THAT A PERSON, WHETHER IN THIS STATE OR ELSEWHERE, HAS
17 ENGAGED IN OR IS ENGAGING IN A VIOLATION OF SECTION 24-31-1203, THE
18 ATTORNEY GENERAL MAY ISSUE SUBPOENAS TO REQUIRE THE
19 ATTENDANCE OF WITNESSES OR THE PRODUCTION OF DOCUMENTS,
20 ADMINISTER OATHS, CONDUCT HEARINGS IN AID OF ANY INVESTIGATION OR
21 INQUIRY, AND PRESCRIBE SUCH FORMS AS MAY BE NECESSARY TO
22 ADMINISTER THIS PART 12.

23 (3) THE ATTORNEY GENERAL MAY ISSUE SUBPOENAS TO ANY
24 PUBLIC OR PRIVATE CORPORATION OR PARTNERSHIP OR ASSOCIATION OR
25 GOVERNMENTAL ENTITY TO PRODUCE WITNESSES TO APPEAR AND GIVE
26 ORAL TESTIMONY AT INVESTIGATIVE HEARINGS. THE SUBPOENAS MAY
27 DESIGNATE WITH REASONABLE PARTICULARITY THE MATTERS ON WHICH

1 EXAMINATION IS REQUESTED. IN RESPONSE TO THE SUBPOENA, THE ENTITY
2 SHALL DESIGNATE ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING
3 AGENTS, OR DESIGNATE OTHER PERSONS, TO TESTIFY ON ITS BEHALF.

4 (4) A NOTICE OR SUBPOENA MAY BE SERVED IN THE MANNER
5 PRESCRIBED BY LAW OR AS PROVIDED IN RULE 4 OF THE COLORADO RULES
6 OF CIVIL PROCEDURE.

7 (5) (a) IF THE RECORDS OF A PERSON WHO HAS BEEN ISSUED A
8 SUBPOENA ARE LOCATED OUTSIDE THIS STATE, THE PERSON SHALL EITHER:

9 (I) MAKE THEM AVAILABLE TO THE ATTORNEY GENERAL EITHER
10 ELECTRONICALLY OR AT A CONVENIENT LOCATION WITHIN THIS STATE; OR

11 (II) PAY THE REASONABLE AND NECESSARY EXPENSES FOR THE
12 ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE, TO
13 EXAMINE THE RECORDS AT THE PLACE WHERE THEY ARE MAINTAINED.

14 (b) THE ATTORNEY GENERAL MAY DESIGNATE REPRESENTATIVES,
15 INCLUDING COMPARABLE OFFICIALS OF THE STATE IN WHICH THE RECORDS
16 ARE LOCATED, TO INSPECT THE RECORDS ON BEHALF OF THE ATTORNEY
17 GENERAL.

18 (6) IF ANY PERSON FAILS TO COOPERATE WITH ANY INVESTIGATION
19 PURSUANT TO THIS SECTION OR FAILS TO OBEY ANY SUBPOENA ISSUED
20 PURSUANT TO THIS SECTION, THE ATTORNEY GENERAL MAY APPLY TO THE
21 APPROPRIATE DISTRICT COURT FOR AN APPROPRIATE ORDER TO
22 EFFECTUATE THE PURPOSES OF THIS PART 12. AT THE REQUEST OF THE
23 ATTORNEY GENERAL, THE APPLICATION MAY BE FILED IN CAMERA AND
24 KEPT CONFIDENTIAL TO MAINTAIN THE CONFIDENTIALITY OF THE
25 ATTORNEY GENERAL'S INVESTIGATION. THE APPLICATION MUST STATE
26 THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE ORDER
27 APPLIED FOR IS NECESSARY TO INVESTIGATE A VIOLATION OF THIS PART 12.

1 IF THE COURT IS SATISFIED THAT REASONABLE GROUNDS EXIST, THE COURT
2 IN ITS ORDER MAY:

- 3 (a) GRANT APPROPRIATE INJUNCTIVE RELIEF;
- 4 (b) REQUIRE ATTENDANCE OF OR THE PRODUCTION OF DOCUMENTS
5 BY THE PERSON, OR BOTH;
- 6 (c) GRANT OTHER OR FURTHER RELIEF AS MAY BE NECESSARY TO
7 OBTAIN COMPLIANCE BY THE PERSON.

8 **24-31-1208. Rule-making.** THE ATTORNEY GENERAL MAY
9 PROMULGATE RULES NECESSARY TO IMPLEMENT THIS PART 12.

10 **24-31-1209. Use of recoveries - false claims recovery cash fund**
11 **- creation.** (1) THE STATE TREASURER SHALL TRANSFER ALL PROCEEDS
12 RETAINED BY THE STATE FROM A FALSE CLAIMS ACTION BROUGHT
13 PURSUANT TO THIS PART 12 TO THE FALSE CLAIMS RECOVERY CASH FUND,
14 WHICH IS HEREBY CREATED.

15 (2) ANY MONEY IN THE FUND NOT EXPENDED FOR THE PURPOSE OF
16 THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED
17 BY LAW. ALL INTEREST AND INCOME DERIVED FROM INVESTMENT AND
18 DEPOSIT OF MONEY IN THE FUND SHALL BE CREDITED TO THE FUND.

19 (3) (a) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
20 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR
21 NECESSARY ACTUAL COSTS OF CARRYING OUT ITS DUTIES PURSUANT TO
22 THIS PART 12.

23 (b) (I) WHEN PROCEEDS RETAINED BY THE STATE FROM A FALSE
24 CLAIMS ACTION ARE DEPOSITED INTO THE FUND, THE ATTORNEY GENERAL
25 SHALL DETERMINE THE AMOUNT OF THE PROCEEDS THAT SHOULD REMAIN
26 IN THE FUND FOR USE BY THE DEPARTMENT FOR THE COSTS OF CARRYING
27 OUT ITS DUTIES PURSUANT TO THIS PART 12 AND THE AMOUNT OF ANY

1 PROCEEDS DEPOSITED INTO THE FUND THAT ARE ATTRIBUTABLE TO A
2 POLITICAL SUBDIVISION.

3 (II) IF THE AMOUNT OF THE PROCEEDS IS EQUAL TO OR EXCEEDS
4 THE AMOUNT OF THE FALSE CLAIM PLUS THE DEPARTMENT'S COSTS, THE
5 ATTORNEY GENERAL SHALL DIRECT THE STATE TREASURER TO TRANSFER
6 TO THE ORIGINAL FUND FROM WHICH THE FALSE CLAIM WAS PAID AN
7 AMOUNT EQUAL TO THE FALSE CLAIM. IF ALL OR PART OF THE PROCEEDS
8 ARE ATTRIBUTABLE TO A POLITICAL SUBDIVISION, THE ATTORNEY
9 GENERAL SHALL DIRECT THE TREASURER TO PAY TO THE POLITICAL
10 SUBDIVISION, AS DESCRIBED IN SUBSECTION (3)(c) OF THIS SECTION, AN
11 AMOUNT EQUAL TO THE FALSE CLAIM.

12 (III) IF THE AMOUNT OF THE PROCEEDS IS LESS THAN THE AMOUNT
13 OF THE FALSE CLAIM PLUS THE DEPARTMENT'S COSTS, THE ATTORNEY
14 GENERAL SHALL DIRECT THE STATE TREASURER TO TRANSFER TO THE
15 ORIGINAL FUND FROM WHICH THE FALSE CLAIM WAS PAID A PRO-RATED
16 AMOUNT BASED ON THE ACTUAL RECOVERY. IF ALL OR PART OF THE
17 PROCEEDS ARE ATTRIBUTABLE TO A POLITICAL SUBDIVISION, THE
18 ATTORNEY GENERAL SHALL DIRECT THE TREASURER TO PAY TO THE
19 POLITICAL SUBDIVISION, AS DESCRIBED IN SUBSECTION (3)(c) OF THIS
20 SECTION, A PRO-RATED AMOUNT BASED ON THE ACTUAL RECOVERY.

21 (c) NO LATER THAN SEVEN DAYS AFTER THE ATTORNEY GENERAL
22 DIRECTS THE STATE TREASURER TO MAKE A PAYMENT TO A POLITICAL
23 SUBDIVISION PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION, THE
24 STATE TREASURER SHALL ISSUE A WARRANT TO BE PAID UPON DEMAND
25 FROM THE FUND TO THE POLITICAL SUBDIVISION IN THE AMOUNT SPECIFIED
26 BY THE ATTORNEY GENERAL.

27 (4) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING

1 IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND
2 AND SHALL NOT BE CREDITED OR TRANSFERRED TO ANOTHER FUND.

3 **24-31-1210. No limitations on common law authority -**
4 **medicaid fraud control.** NOTHING IN THIS PART 12 AFFECTS, LIMITS, OR
5 SUPPLANTS THE COMMON LAW AUTHORITY OF THE ATTORNEY GENERAL OR
6 THE DEPARTMENT TO INVESTIGATE AND PROSECUTE MEDICAID FRAUD
7 PURSUANT TO PART 8 OF THIS ARTICLE 31.

8 **24-31-1211. False claims act report.** (1) ON OR BEFORE
9 JANUARY 15, 2024, AND ON OR BEFORE EACH JANUARY 15 THEREAFTER,
10 THE ATTORNEY GENERAL SHALL SUBMIT A WRITTEN REPORT TO THE HOUSE
11 OF REPRESENTATIVES BUSINESS AFFAIRS AND LABOR COMMITTEE, THE
12 HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE, THE SENATE
13 BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE, AND THE SENATE
14 JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, CONCERNING
15 CLAIMS BROUGHT PURSUANT TO THIS PART 12 DURING THE PREVIOUS
16 FISCAL YEAR. THE REPORT MUST INCLUDE, BUT IS NOT LIMITED TO:

17 (a) THE NUMBER OF ACTIONS BROUGHT BY THE ATTORNEY
18 GENERAL AND THE DISPOSITION OF THE ACTIONS;

19 (b) THE AMOUNT OF PROCEEDS RECOVERED BY THE STATE
20 THROUGH SETTLEMENT OR JUDGMENT IN AN ACTION BROUGHT PURSUANT
21 TO THIS PART 12, INCLUDING:

22 (I) THE CASE NUMBER AND PARTIES FOR EACH ACTION IN WHICH
23 PROCEEDS WERE RECOVERED;

24 (II) THE AMOUNT OF PROCEEDS RECOVERED IN EACH CASE,
25 CATEGORIZED BY THE AMOUNT RECOVERED AS DAMAGES, PENALTIES, AND
26 LITIGATION COSTS; AND

27 (III) IF APPLICABLE, THE PERCENTAGE OF THE PROCEEDS

1 RECOVERED AND THE TOTAL AMOUNT AWARDED TO A PRIVATE PERSON
2 WHO BROUGHT THE ACTION.

3 (c) THE NUMBER OF ACTIONS BROUGHT BY A PERSON OTHER THAN
4 THE ATTORNEY GENERAL IN WHICH THE ATTORNEY GENERAL DID NOT
5 INTERVENE, WHETHER THE ACTIONS WERE CONTINUED BY THE OTHER
6 PERSON, AND THE DISPOSITION OF THE ACTIONS;

7 (d) THE AMOUNT OF PROCEEDS, INCLUDING ANY LITIGATION COSTS
8 AND ATTORNEY FEES, RECOVERED THROUGH SETTLEMENT OR JUDGMENT
9 IN ACTIONS BROUGHT BY A PERSON OTHER THAN THE ATTORNEY GENERAL;
10 AND

11 (e) THE AMOUNT EXPENDED BY THE STATE FOR INVESTIGATION
12 AND LITIGATION OF FALSE CLAIMS PURSUANT TO THIS PART 12 AND ALL
13 OTHER COSTS RELATED TO THIS PART 12.

14 (2) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
15 REPORTING REQUIREMENT DESCRIBED IN THIS SECTION CONTINUES
16 INDEFINITELY.

17 **SECTION 3.** In Colorado Revised Statutes, 2-3-109, **add** (3) as
18 follows:

19 **2-3-109. Emergency reports.** (3) IF THE STATE AUDITOR IN THE
20 COURSE OF AN AUDIT FINDS EVIDENCE OF APPARENTLY FALSE CLAIMS
21 RELATED TO PUBLIC FUNDS OR PROPERTY, THE STATE AUDITOR SHALL
22 IMMEDIATELY REPORT SUCH TRANSACTIONS TO THE COMMITTEE AND
23 SHALL FILE A WRITTEN COPY OF THE REPORT WITH THE ATTORNEY
24 GENERAL.

25 **SECTION 4.** In Colorado Revised Statutes, 2-3-110.5, **amend**
26 (3)(a)(II) as follows:

27 **2-3-110.5. Fraud hotline - investigations - confidentiality -**

1 **access to records - definitions.** (3) (a) (II) The state auditor shall
2 forward all hotline calls alleging fraud by a medicaid recipient to the
3 department of health care policy and financing, ~~and~~ all calls alleging
4 fraud by a medicaid provider or contractor to the medicaid fraud control
5 unit of the office of the attorney general, AND ALL CALLS ALLEGING FRAUD
6 IN VIOLATION OF THE "COLORADO FALSE CLAIMS ACT", PART 12 OF
7 ARTICLE 31 OF TITLE 24, TO THE ATTORNEY GENERAL UNLESS THE
8 ALLEGATION RELATES TO A STATE EMPLOYEE IN THE PERFORMANCE OF
9 THE EMPLOYEE'S DUTIES.

10 **SECTION 5. Appropriation.** For the 2022-23 state fiscal year,
11 \$13,568 is appropriated to the legislative department for use by the office
12 of the state auditor. This appropriation is from the general fund. The
13 office may use this appropriation to implement this act.

14 **SECTION 6. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2022 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.