

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0204.01 Conrad Imel x2313

HOUSE BILL 22-1119

HOUSE SPONSORSHIP

Gray,

SENATE SPONSORSHIP

Winter,

House Committees

Judiciary
Finance

Senate Committees

A BILL FOR AN ACT

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

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"):

- Knowingly presenting, or causing to be presented, a false

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.

- 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.

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

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

4 **24-31-101. Powers and duties of attorney general.** (1) The
5 attorney general:

6 (p) May bring a civil action to enforce the provisions of section
7 24-31-113; ~~and~~

8 (q) May bring a civil action to enforce the provisions of section
9 24-31-307 (2) or a criminal action to enforce the provisions of section
10 24-31-307 (3); AND

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

14 **SECTION 2.** In Colorado Revised Statutes, **add** part 12 to article
15 31 of title 24 as follows:

16 PART 12

17 COLORADO FALSE CLAIMS ACT

18 **24-31-1201. Short title.** THE SHORT TITLE OF THIS PART 12 IS THE
19 "COLORADO FALSE CLAIMS ACT".

20 **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 **24-31-1204. Civil actions for false claims - claims for**
23 **retaliation - definitions. (1) Responsibility of attorney general.**

24 (a) THE ATTORNEY GENERAL SHALL DILIGENTLY INVESTIGATE A
25 VIOLATION OF SECTION 24-31-1203. IF THE ATTORNEY GENERAL FINDS
26 THAT A PERSON HAS VIOLATED OR IS VIOLATING SECTION 24-31-1203, THE
27 ATTORNEY GENERAL MAY BRING A CIVIL ACTION AGAINST THE PERSON

1 PURSUANT TO THIS SECTION.

2 (b) IF THE ATTORNEY GENERAL BRINGS A CIVIL ACTION PURSUANT
3 TO THIS SECTION ON A CLAIM INVOLVING POLITICAL SUBDIVISION MONEY
4 AS WELL AS STATE MONEY, THE ATTORNEY GENERAL SHALL SERVE BY
5 MAIL, WITH RETURN RECEIPT REQUESTED, A COPY OF THE COMPLAINT ON
6 THE SUBDIVISION'S APPROPRIATE PROSECUTING AUTHORITY WITHIN
7 FOURTEEN DAYS AFTER THE DATE THAT THE COMPLAINT IS FILED IN THE
8 ACTION.

9 (c) WITHIN SIXTY-THREE DAYS AFTER RECEIPT OF THE COMPLAINT
10 PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, AND SUBJECT TO
11 SUBSECTION (2)(d) OF THIS SECTION. THE PROSECUTING AUTHORITY SHALL
12 HAVE THE RIGHT TO INTERVENE IN AN ACTION BROUGHT BY THE
13 ATTORNEY GENERAL PURSUANT TO THIS SECTION. THE COURT MAY PERMIT
14 THE POLITICAL SUBDIVISION TO INTERVENE THEREAFTER UPON A SHOWING
15 THAT ALL OF THE REQUIREMENTS OF THE COLORADO RULES OF CIVIL
16 PROCEDURE HAVE BEEN MET.

17 (d) IN ANY ACTION BROUGHT PURSUANT TO THIS PART 12 IN WHICH
18 THE ATTORNEY GENERAL IS A PARTY, EITHER AS THE PLAINTIFF OR AS AN
19 INTERVENOR, THE COURT MAY DISMISS THE ACTION UPON MOTION OF THE
20 ATTORNEY GENERAL FOLLOWING THE NOTICE AND OPPORTUNITY FOR A
21 HEARING PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION. IN
22 DETERMINING WHETHER TO FILE A MOTION TO DISMISS, THE ATTORNEY
23 GENERAL SHALL CONSIDER THE SEVERITY OF THE FALSE CLAIM, PROGRAM
24 OR POPULATION IMPACTED BY THE FALSE CLAIM, DURATION OF THE FRAUD,
25 WEIGHT AND MATERIALITY OF THE EVIDENCE, OTHER MEANS TO MAKE THE
26 PROGRAM WHOLE, AND OTHER FACTORS THE ATTORNEY GENERAL DEEMS
27 RELEVANT. THE ATTORNEY GENERAL'S DECISION-MAKING PROCESS

1 CONCERNING A MOTION TO DISMISS AND ANY RECORDS RELATED TO THE
2 DECISION-MAKING PROCESS ARE NOT DISCOVERABLE IN ANY ACTION.

3 (2) **Responsibility of prosecuting authority.** (a) A PROSECUTING
4 AUTHORITY FOR A POLITICAL SUBDIVISION SHALL DILIGENTLY
5 INVESTIGATE A VIOLATION OF SECTION 24-31-1203 INVOLVING A CLAIM
6 FILED WITH THAT POLITICAL SUBDIVISION. IF THE PROSECUTING
7 AUTHORITY FINDS THAT A PERSON HAS VIOLATED OR IS VIOLATING
8 SECTION 24-31-1203, THE PROSECUTING AUTHORITY MAY BRING A CIVIL
9 ACTION AGAINST THE PERSON PURSUANT TO THIS SECTION.

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

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

19 (I) NOTIFY THE COURT THAT THE ATTORNEY GENERAL INTENDS TO
20 PROCEED WITH THE ACTION, IN WHICH CASE THE ATTORNEY GENERAL
21 SHALL ASSUME PRIMARY RESPONSIBILITY FOR CONDUCTING THE ACTION
22 AND THE PROSECUTING AUTHORITY HAS THE RIGHT TO CONTINUE AS A
23 PARTY; OR

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

27 (d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,

1 A POLITICAL SUBDIVISION IS NOT PERMITTED TO BRING AN ACTION
2 PURSUANT TO THIS SUBSECTION (2) OR INTERVENE IN AN ACTION
3 PURSUANT TO SUBSECTION (1)(c) OR (4)(b) OF THIS SECTION WITHOUT THE
4 CONSENT OF THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S
5 DESIGNEE.

6 (e) THE LIMITATIONS AND REQUIREMENTS DESCRIBED IN SECTION
7 13-17-304 APPLY TO A CONTINGENT FEE CONTRACT BETWEEN A POLITICAL
8 SUBDIVISION AND A PRIVATE ATTORNEY ENTERED INTO FOR THE PURPOSE
9 OF BRINGING OR INTERVENING IN AN ACTION PURSUANT TO THIS PART 12.

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

11 (a) NOTWITHSTANDING ANY OTHER STATE LAW REQUIRING THE STATE
12 AUDITOR TO KEEP INFORMATION CONFIDENTIAL, IF IN THE COURSE OF ITS
13 AUDIT AUTHORITY, THE OFFICE OF THE STATE AUDITOR IDENTIFIES
14 INFORMATION OF POTENTIAL FALSE CLAIMS SUBMITTED TO THE STATE OR
15 A POLITICAL SUBDIVISION, THE STATE AUDITOR MAY SHARE ANY
16 INFORMATION WITH THE ATTORNEY GENERAL OR THE POLITICAL
17 SUBDIVISION. THE STATE AUDITOR MAY PARTICIPATE, WITH THE CONSENT
18 OF THE ATTORNEY GENERAL, IN ANY SUBSEQUENT INVESTIGATION OR
19 PROSECUTION OF THAT FALSE CLAIM.

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

23 (4) **Actions by private persons.** (a) A PERSON MAY BRING A CIVIL
24 ACTION FOR A VIOLATION OF SECTION 24-31-1203 FOR THE PERSON AND
25 FOR THE STATE OR A POLITICAL SUBDIVISION THAT IS AFFECTED BY THE
26 VIOLATION. THE ACTION MUST BE BROUGHT IN THE NAME OF THE STATE OR
27 POLITICAL SUBDIVISION. THE COURT SHALL NOT DISMISS AN ACTION UPON

1 MOTION OF THE PRIVATE PERSON WHO BROUGHT THE ACTION UNLESS THE
2 ATTORNEY GENERAL OR THE PROSECUTING AUTHORITY GIVE WRITTEN
3 CONSENT TO THE DISMISSAL AND THEIR REASONS FOR CONSENTING.

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

26 (II) IN DETERMINING WHETHER TO INTERVENE AND PROCEED WITH
27 AN ACTION PURSUANT TO THIS SUBSECTION (4)(b), THE ATTORNEY

1 GENERAL SHALL CONSIDER THE FACTORS DESCRIBED IN SUBSECTION (1)(d)
2 OF THIS SECTION. THE ATTORNEY GENERAL'S DECISION-MAKING PROCESS
3 CONCERNING WHETHER TO INTERVENE AND ANY RECORDS RELATED TO
4 THE DECISION-MAKING PROCESS ARE NOT DISCOVERABLE IN ANY ACTION.

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

14 (d) BEFORE THE EXPIRATION OF THE SIXTY-THREE-DAY PERIOD
15 PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION AND ANY EXTENSIONS
16 OBTAINED PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION, THE STATE
17 OR POLITICAL SUBDIVISION SHALL:

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

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

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

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

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

12 (b) (I) THE STATE OR POLITICAL SUBDIVISION MAY, AT ANY TIME,
13 DISMISS THE ACTION, IN WHOLE OR IN PART, NOTWITHSTANDING THE
14 OBJECTIONS OF THE PERSON WHO BROUGHT THE ACTION IF THE PERSON
15 HAS BEEN NOTIFIED BY THE STATE OR POLITICAL SUBDIVISION OF THE
16 FILING OF THE MOTION AND THE COURT HAS PROVIDED THE PERSON WITH
17 AN OPPORTUNITY FOR A HEARING ON THE MOTION.

18 (II) THE STATE OR POLITICAL SUBDIVISION MAY SETTLE THE
19 ACTION WITH THE DEFENDANT NOTWITHSTANDING THE OBJECTIONS OF THE
20 PERSON WHO BROUGHT THE ACTION IF THE COURT DETERMINES, AFTER A
21 HEARING, THAT THE PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND
22 REASONABLE UNDER ALL THE CIRCUMSTANCES. UPON A SHOWING OF
23 GOOD CAUSE, THE COURT MAY HOLD THE HEARING IN CAMERA.

24 (III) UPON A SHOWING BY THE STATE OR POLITICAL SUBDIVISION
25 THAT UNRESTRICTED PARTICIPATION DURING THE COURSE OF THE
26 LITIGATION BY THE PERSON WHO BROUGHT THE ACTION WOULD INTERFERE
27 WITH OR UNDULY DELAY THE STATE'S OR POLITICAL SUBDIVISION'S

1 PROSECUTION OF THE CASE, OR WOULD BE REPETITIOUS, IRRELEVANT, OR
2 FOR PURPOSES OF HARASSMENT, THE COURT MAY, IN ITS DISCRETION,
3 IMPOSE LIMITATIONS ON THE PERSON'S PARTICIPATION, INCLUDING BUT
4 NOT LIMITED TO:

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

6 (B) LIMITING THE LENGTH OF THE TESTIMONY OF THE WITNESSES
7 CALLED BY THE PERSON;

8 (C) LIMITING THE PERSON'S CROSS-EXAMINATION OF WITNESSES;

9 AND

10 (D) OTHERWISE LIMITING THE PARTICIPATION BY THE PERSON IN
11 THE LITIGATION.

12 (IV) UPON A SHOWING BY THE DEFENDANT THAT UNRESTRICTED
13 PARTICIPATION DURING THE COURSE OF THE LITIGATION BY THE PERSON
14 WHO BROUGHT THE ACTION WOULD BE FOR PURPOSES OF HARASSMENT OR
15 WOULD CAUSE THE DEFENDANT UNDUE BURDEN OR UNNECESSARY
16 EXPENSE, THE COURT MAY LIMIT THE PARTICIPATION BY THE PERSON IN
17 THE LITIGATION AS DESCRIBED IN SUBSECTION (5)(b)(III) OF THIS SECTION.

18 (c) THE FACT THAT THE STATE OR POLITICAL SUBDIVISION HAS
19 ELECTED NOT TO PROCEED WITH AN ACTION IS NOT A BASIS FOR A MOTION
20 TO DISMISS, MOTION FOR DETERMINATION OF A QUESTION OF LAW, OR
21 MOTION FOR SUMMARY JUDGMENT, NOR IS IT A BASIS TO DENY THE COURT
22 JURISDICTION OVER THE ACTION, BUT IF THE ATTORNEY GENERAL SUBMITS
23 TO THE COURT THE ATTORNEY GENERAL'S REASONS FOR NOT PROCEEDING
24 WITH THE ACTION, THE COURT MAY CONSIDER THE REASONS WHEN
25 DECIDING A MOTION OR WHETHER THE COURT HAS JURISDICTION. IF THE
26 STATE OR POLITICAL SUBDIVISION SO REQUESTS, IT MUST BE SERVED WITH
27 COPIES OF ALL PLEADINGS FILED IN THE ACTION AND, AT THE STATE'S OR

1 POLITICAL SUBDIVISION'S EXPENSE, BE SUPPLIED WITH COPIES OF ALL
2 DEPOSITION TRANSCRIPTS. WHEN THE PERSON PROCEEDS WITH THE
3 ACTION, THE COURT, WITHOUT LIMITING THE STATUS AND RIGHTS OF THE
4 PERSON, MAY NEVERTHELESS PERMIT THE STATE OR POLITICAL
5 SUBDIVISION TO INTERVENE AT A LATER DATE UPON A SHOWING OF GOOD
6 CAUSE.

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

21 (e) NOTWITHSTANDING SUBSECTION (4) OF THIS SECTION, THE
22 STATE OR POLITICAL SUBDIVISION MAY ELECT TO PURSUE ITS CLAIM
23 THROUGH ANY ALTERNATE REMEDY AVAILABLE TO THE STATE OR
24 POLITICAL SUBDIVISION. IF AN ALTERNATE REMEDY IS PURSUED IN
25 ANOTHER PROCEEDING, THE PERSON WHO BROUGHT THE ACTION
26 PURSUANT TO SUBSECTION (4) OF THIS SECTION HAS THE SAME RIGHTS IN
27 THAT PROCEEDING AS THE PERSON WOULD HAVE HAD IF THE ACTION HAD

1 CONTINUED PURSUANT TO THIS SECTION. ANY FINDING OF FACT OR
2 CONCLUSION OF LAW MADE IN THE OTHER PROCEEDING THAT HAS BECOME
3 FINAL IS BINDING ON ALL PARTIES TO AN ACTION BROUGHT PURSUANT TO
4 THIS SECTION. FOR PURPOSES OF THIS SUBSECTION (5)(e), A FINDING OR
5 CONCLUSION IS FINAL IF IT HAS BEEN FINALLY DETERMINED ON APPEAL TO
6 THE APPROPRIATE COURT OF THE STATE, IF ALL TIME FOR FILING SUCH AN
7 APPEAL WITH RESPECT TO THE FINDING OR CONCLUSION HAS EXPIRED, OR
8 IF THE FINDING OR CONCLUSION IS NOT SUBJECT TO JUDICIAL REVIEW.

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

18 (II) IF THE COURT FINDS THE ACTION TO BE BASED PRIMARILY ON
19 DISCLOSURES OF SPECIFIC INFORMATION, OTHER THAN INFORMATION
20 PROVIDED BY THE PERSON WHO BROUGHT THE ACTION, RELATING TO
21 ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, CIVIL, OR
22 ADMINISTRATIVE HEARING; IN A LEGISLATIVE, ADMINISTRATIVE, OR
23 FORMAL AUDIT REPORT, HEARING, OR INVESTIGATION; OR FROM THE NEWS
24 MEDIA, THE COURT MAY AWARD TO THE PERSON SUCH SUMS AS IT
25 CONSIDERS APPROPRIATE BUT IN NO CASE MORE THAN TEN PERCENT OF
26 THE PROCEEDS. IN MAKING ITS DETERMINATION, THE COURT SHALL
27 CONSIDER THE SIGNIFICANCE OF THE INFORMATION PROVIDED BY THE

1 PERSON AND THE ROLE OF THE PERSON IN ADVANCING THE CASE TO
2 LITIGATION.

3 (III) ANY PAYMENT TO A PERSON MADE PURSUANT TO THIS
4 SUBSECTION (6)(a) MUST BE MADE FROM THE PROCEEDS. IN ADDITION TO
5 AN AWARD MADE PURSUANT TO SUBSECTION (6)(a)(I) OR (6)(a)(II) OF THIS
6 SECTION, THE COURT SHALL AWARD THE PERSON AN AMOUNT FOR
7 REASONABLE EXPENSES THAT THE COURT FINDS TO HAVE BEEN
8 NECESSARILY INCURRED, PLUS REASONABLE ATTORNEY FEES AND COSTS.
9 THE COURT SHALL AWARD ALL OF THE EXPENSES, FEES, AND COSTS
10 AGAINST THE DEFENDANT.

11 (IV) IF THE PERSON WHO BROUGHT THE ACTION IS A GOVERNMENT
12 EMPLOYEE WHO, IN THE COURSE OF THE PERSON'S WORK FOR THE STATE OR
13 A POLITICAL SUBDIVISION, GAINS KNOWLEDGE OF ANY INFORMATION THAT
14 FORMS, IN WHOLE OR IN PART, THE BASIS OF THE PERSON'S CLAIM, THE
15 COURT SHALL AWARD TO THE STATE OR POLITICAL SUBDIVISION THAT
16 EMPLOYS THE PERSON THE AMOUNT THAT WOULD OTHERWISE BE
17 AWARDED TO THE PERSON PURSUANT TO THIS SUBSECTION (6).

18 (b) IF THE STATE OR POLITICAL SUBDIVISION DOES NOT INTERVENE
19 IN AND PROCEED WITH AN ACTION PURSUANT TO SUBSECTION (4)(b) OF
20 THIS SECTION, THE PERSON PREVAILING IN THE ACTION OR SETTLING THE
21 CLAIM MUST RECEIVE AN AMOUNT THAT THE COURT DECIDES IS
22 REASONABLE FOR COLLECTING THE CIVIL PENALTY AND DAMAGES. THE
23 AMOUNT MUST BE AT LEAST TWENTY-FIVE PERCENT BUT NOT MORE THAN
24 THIRTY PERCENT OF THE PROCEEDS RECEIVED FROM THE ACTION OR
25 SETTLEMENT AND MUST BE PAID OUT OF THE PROCEEDS. THE COURT SHALL
26 AWARD THE PERSON AN AMOUNT FOR REASONABLE EXPENSES THAT THE
27 COURT FINDS TO HAVE BEEN NECESSARILY INCURRED, PLUS REASONABLE

1 ATTORNEY FEES AND COSTS. THE COURT SHALL AWARD ALL OF THE
2 EXPENSES, FEES, AND COSTS AGAINST THE DEFENDANT.

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

19 (d) IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT
20 INTERVENE IN AND PROCEED WITH AN ACTION PURSUANT TO SUBSECTION
21 (4)(b) OF THIS SECTION AND THE PERSON WHO BROUGHT THE ACTION
22 PURSUES THE ACTION, THE COURT MAY AWARD TO THE DEFENDANT
23 REASONABLE ATTORNEY FEES AND EXPENSES IF THE DEFENDANT PREVAILS
24 IN THE ACTION AND THE COURT FINDS THAT THE CLAIM OF THE PERSON
25 WAS CLEARLY FRIVOLOUS, CLEARLY VEXATIOUS, OR BROUGHT PRIMARILY
26 FOR PURPOSES OF HARASSMENT.

27 (7) **Certain actions barred.** (a) A COURT DOES NOT HAVE

1 JURISDICTION OVER AN ACTION BROUGHT PURSUANT TO THIS SECTION:

2 (I) AGAINST A SERVING MEMBER OF THE GENERAL ASSEMBLY, A
3 MEMBER OF THE STATE JUDICIARY, AN EXECUTIVE DIRECTOR OF A STATE
4 AGENCY, OR AN ELECTED OFFICIAL IN THE EXECUTIVE BRANCH OF THE
5 STATE OF COLORADO ACTING IN THE MEMBER'S, EXECUTIVE DIRECTOR'S,
6 OR OFFICIAL'S OFFICIAL CAPACITY; OR

7 (II) IF THE ACTION IS BROUGHT BY A PERSON PURSUANT TO
8 SUBSECTION (4) OF THIS SECTION AND IS BASED ON EVIDENCE OR
9 INFORMATION KNOWN TO THE STATE OR POLITICAL SUBDIVISION WHEN THE
10 ACTION WAS BROUGHT.

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

16 (c) (I) A COURT SHALL DISMISS AN ACTION OR CLAIM BROUGHT
17 PURSUANT TO SUBSECTION (4) OF THIS SECTION IF THE ACTION PURSUED BY
18 THE PERSON IS BASED UPON SUBSTANTIALLY THE SAME ALLEGATIONS OR
19 TRANSACTIONS PUBLICLY DISCLOSED IN A CRIMINAL, CIVIL, OR
20 ADMINISTRATIVE HEARING; IN A LEGISLATIVE, ADMINISTRATIVE, OR
21 FORMAL AUDIT REPORT, HEARING, OR INVESTIGATION; OR FROM THE NEWS
22 MEDIA, UNLESS:

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

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

27 (C) THE PERSON WHO BROUGHT THE ACTION IS AN ORIGINAL

1 SOURCE OF THE INFORMATION THAT IS THE BASIS FOR THE ACTION.

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

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

8 (B) HAS KNOWLEDGE THAT IS INDEPENDENT OF AND MATERIALLY
9 ADDS TO THE PUBLICLY DISCLOSED ALLEGATIONS OR TRANSACTIONS AND
10 HAS VOLUNTARILY PROVIDED THE INFORMATION TO THE STATE OR
11 POLITICAL SUBDIVISION BEFORE FILING AN ACTION PURSUANT TO
12 SUBSECTION (4) OF THIS SECTION.

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

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

19 (I) "CONFIDENTIAL INFORMATION" INCLUDES DOCUMENTS;
20 E-MAILS AND OTHER ELECTRONIC DATA; MEDICAL RECORDS; FINANCIAL
21 RECORDS; TRADE SECRET INFORMATION; INTELLECTUAL PROPERTY; OR
22 INFORMATION THAT IS SUBJECT TO AN EMPLOYMENT AGREEMENT,
23 CONFIDENTIALITY AGREEMENT, OR NONDISCLOSURE AGREEMENT OR FOR
24 WHICH THE PERSON WHO BROUGHT THE ACTION PURSUANT TO SUBSECTION
25 (4) OF THIS SECTION HAS A FIDUCIARY OBLIGATION TO MAINTAIN AS
26 CONFIDENTIAL. CONFIDENTIAL INFORMATION DOES NOT INCLUDE
27 INFORMATION THAT IS PROTECTED BY THE DEFENDANT'S

1 ATTORNEY-CLIENT PRIVILEGE UNLESS THE PRIVILEGE WAS WAIVED,
2 INADVERTENTLY OR OTHERWISE, BY THE PERSON WHO HOLDS THE
3 PRIVILEGE; AN EXCEPTION TO THE PRIVILEGE APPLIES; OR DISCLOSURE OF
4 THE INFORMATION IS PERMITTED BY AN ATTORNEY PURSUANT TO 17 CFR
5 205.3 (d)(2), THE APPLICABLE COLORADO RULES OF PROFESSIONAL
6 CONDUCT, OR OTHERWISE.

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

9 (A) CONDUCTING OR ASSISTING WITH AN INVESTIGATION FOR,
10 INITIATION OF, TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO
11 BE FILED PURSUANT TO THIS SECTION, OR CONDUCTING OR ASSISTING WITH
12 AN INVESTIGATION WHEN THERE IS A REASONABLE BELIEF OF A POTENTIAL
13 VIOLATION OF THIS SECTION;

14 (B) MEETING WITH POTENTIAL OR RETAINED COUNSEL OR AGENTS
15 OR REPRESENTATIVES OF THE STATE OR POLITICAL SUBDIVISION ABOUT
16 THE MATTER THAT IS THE SUBJECT OF AN ACTION FILED OR TO BE FILED
17 PURSUANT TO THIS SECTION;

18 (C) PROVIDING THE INDIVIDUAL'S COUNSEL OR AGENTS OR
19 REPRESENTATIVES OF THE STATE OR THE POLITICAL SUBDIVISION WITH
20 CONFIDENTIAL INFORMATION; OR

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

22 (b) AN EMPLOYEE, CONTRACTOR, OR AGENT IS ENTITLED TO ALL
23 RELIEF NECESSARY TO MAKE THAT INDIVIDUAL WHOLE IF THE INDIVIDUAL
24 IS DISCHARGED, DEMOTED, SUSPENDED, THREATENED, HARASSED,
25 INTIMIDATED, SUED, DEFAMED, BLACKLISTED, OR IN ANY OTHER MANNER
26 RETALIATED AGAINST OR DISCRIMINATED AGAINST IN THE TERMS AND
27 CONDITIONS OF THE INDIVIDUAL'S EMPLOYMENT, CONTRACT, BUSINESS, OR

1 PROFESSION BY THE DEFENDANT OR BY ANY OTHER PERSON BECAUSE OF
2 LAWFUL ACTS DONE BY THE INDIVIDUAL OR ASSOCIATED OTHERS IN
3 FURTHERANCE OF AN ACTION BROUGHT PURSUANT TO THIS SECTION OR IN
4 FURTHERANCE OF AN EFFORT TO STOP ANY VIOLATION, OR WHAT THE
5 INDIVIDUAL REASONABLY BELIEVES TO BE A VIOLATION, OF SECTION
6 24-31-1203.

7 (c) (I) IF THE DISCLOSURE OF CONFIDENTIAL INFORMATION IS IN
8 FURTHERANCE OF AN ACTION BROUGHT PURSUANT TO THIS SECTION OR IN
9 FURTHERANCE OF AN EFFORT TO STOP ANY VIOLATION, OR WHAT THE
10 INDIVIDUAL REASONABLY BELIEVES TO BE A VIOLATION, OF SECTION
11 24-31-1203, AN INDIVIDUAL HAS A PRIVILEGE TO DISCLOSE THE
12 CONFIDENTIAL INFORMATION TO:

13 (A) THE INDIVIDUAL'S COUNSEL;

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

16 (C) AN AGENT OR AUTHORIZED REPRESENTATIVE OF THE STATE OR
17 POLITICAL SUBDIVISION.

18 (II) THE INDIVIDUAL'S DISCLOSURE OF CONFIDENTIAL
19 INFORMATION TO THE INDIVIDUAL'S COUNSEL OR TO AN AGENT OR
20 AUTHORIZED REPRESENTATIVE OF THE STATE OR POLITICAL SUBDIVISION
21 DOES NOT CONSTITUTE A WAIVER BY A DEFENDANT OF ANY RIGHT OR
22 PRIVILEGE THAT THE DEFENDANT MAY BE ENTITLED TO INVOKE.

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

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

27 (B) BRINGING A SEPARATE ACTION IN AN APPROPRIATE COURT OF

1 THE STATE FOR THE RELIEF PROVIDED PURSUANT TO THIS SUBSECTION (9).

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

5 (A) IF THE INDIVIDUAL IS AN EMPLOYEE, REINSTATEMENT WITH
6 THE SAME SENIORITY STATUS THE INDIVIDUAL WOULD HAVE HAD BUT FOR
7 THE DISCRIMINATION, TWICE THE AMOUNT OF BACK PAY, AND INTEREST ON
8 THE BACK PAY;

9 (B) IF THE INDIVIDUAL IS A CONTRACTOR, SUBCONTRACTOR, OR
10 INDEPENDENT CONTRACTOR, REINSTATEMENT OF A CONTRACT OR
11 SUBCONTRACT THAT WAS CANCELED, NONRENEWED, OR MODIFIED
12 BECAUSE OF RETALIATION, WITH ALL COMPENSATION OR CONTRACTUAL
13 CONSIDERATION THAT THE INDIVIDUAL WOULD HAVE RECEIVED HAD THE
14 CONTRACT OR SUBCONTRACT NOT BEEN CANCELED, NONRENEWED, OR
15 MODIFIED; AND

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

19 (e) (I) THE COURT SHALL AWARD THE INDIVIDUAL NOT LESS THAN
20 THE DAMAGES DESCRIBED IN SUBSECTION (9)(d)(II) OF THIS SECTION IF A
21 DEFENDANT, EMPLOYER, OR OTHER PERSON RETALIATES AGAINST AN
22 INDIVIDUAL BY BRINGING ANOTHER ACTION AGAINST THE INDIVIDUAL FOR:

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

24 (B) DISCLOSURE OF CONFIDENTIAL INFORMATION TO COUNSEL OR
25 AN AGENT OR REPRESENTATIVE OF THE STATE OR POLITICAL SUBDIVISION
26 PURSUANT TO THIS SUBSECTION (9);

27 (C) VIOLATING AN EMPLOYMENT CONTRACT, CONFIDENTIALITY

1 AGREEMENT, NONDISCLOSURE AGREEMENT, OR OTHER AGREEMENT; OR

2 (D) COMMITTING ANY OTHER TORT OR BREACH OF DUTY AND THE
3 COURT HEARING THE ACTION DETERMINES BY A PREPONDERANCE OF THE
4 EVIDENCE THAT THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT
5 THE LAWSUIT AGAINST THE INDIVIDUAL ██████ FOR THE PURPOSE OF
6 RETALIATING AGAINST THE INDIVIDUAL.

7 (II) IN ADDITION TO ANY OTHER REMEDY OR SHARE OF THE
8 PROCEEDS OF THE ACTION TO WHICH THE INDIVIDUAL IS ENTITLED
9 PURSUANT TO THIS SUBSECTION (9) AND REGARDLESS OF WHETHER THE
10 INDIVIDUAL IS DETERMINED TO BE ENTITLED TO SHARE IN THE PROCEEDS
11 OF THE ACTION OR CLAIM FILED PURSUANT TO SUBSECTION (4) OF THIS
12 SECTION, IN ADDITION TO ANY OTHER CONSEQUENTIAL DAMAGES
13 PERMITTED BY LAW, THE DAMAGES FOR A VIOLATION OF THIS SUBSECTION
14 (9)(e) MUST BE NOT LESS THAN:

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

18 (B) THREE TIMES THE INDIVIDUAL'S ACTUAL ATTORNEY FEES AND
19 COSTS IF THE DEFENDANT, EMPLOYER, OR OTHER PERSON BROUGHT THE
20 LAWSUIT IN A JURISDICTION OUTSIDE OF COLORADO.

21 (f) (I) THE COURT HEARING THE ACTION BROUGHT PURSUANT TO
22 SUBSECTION (4) OF THIS SECTION HAS JURISDICTION TO HEAR A PRIVATE
23 ACTION OR MOTION FOR RETALIATION BROUGHT PURSUANT TO THIS
24 SUBSECTION (9).

25 (II) UPON MOTION BY THE INDIVIDUAL, THE VENUE OF AN ACTION
26 FILED IN ANOTHER COURT OF THE STATE OF COLORADO AGAINST THE
27 INDIVIDUAL BY THE DEFENDANT, THE EMPLOYER OF THE PERSON WHO

1 BROUGHT THE ACTION PURSUANT TO SUBSECTION (4) OF THIS SECTION, OR
2 OTHER PERSON ARISING OUT OF THE SUBJECT MATTER OF THE ACTION
3 BROUGHT PURSUANT TO SUBSECTION (4) OF THIS SECTION MUST BE
4 CHANGED TO THE COURT HEARING THE ACTION BROUGHT PURSUANT TO
5 SUBSECTION (4) OF THIS SECTION.

6 (10) **Discovery in other actions.** (a) If a PERSON WHO BRINGS AN
7 ACTION PURSUANT TO SUBSECTION (4) OF THIS SECTION IS A PARTY TO OR
8 WITNESS IN AN ACTION OTHER THAN AN ACTION BROUGHT PURSUANT TO
9 SUBSECTION (4) OF THIS SECTION, REFERRED TO IN THIS SUBSECTION (10)
10 AS AN "OTHER ACTION", AND A PARTY IN THE OTHER ACTION SEEKS
11 DISCOVERY FROM THE PERSON OF INFORMATION ABOUT OTHER LAWSUITS,
12 WHICH DISCOVERY WOULD REQUIRE THE PERSON TO DISCLOSE
13 INFORMATION ABOUT AN ACTION FILED PURSUANT TO SUBSECTION (4) OF
14 THIS SECTION WHILE THAT ACTION IS STILL UNDER SEAL, THE PERSON
15 SHALL:

16 (I) WITHIN A REASONABLE TIME, NOTIFY THE STATE OR POLITICAL
17 SUBDIVISION INVESTIGATING THE ACTION BROUGHT PURSUANT TO
18 SUBSECTION (4) OF THIS SECTION OF THE PENDING DISCOVERY REQUEST;
19 AND

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

26 (b) IF NECESSARY, IN ANY OTHER ACTION, A PERSON WHO
27 BROUGHT THE ACTION PURSUANT TO SUBSECTION (4) OF THIS SECTION,

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

13 (c) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (10)
14 TO THE CONTRARY, INFORMATION ABOUT AN ACTION FILED PURSUANT TO
15 SUBSECTION (4) OF THIS SECTION THAT IS PROTECTED BY THE
16 DEFENDANT'S ATTORNEY-CLIENT PRIVILEGE IS NOT DISCOVERABLE IN ANY
17 OTHER ACTION UNLESS THE PRIVILEGE WAS WAIVED, INADVERTENTLY OR
18 OTHERWISE, BY THE PERSON WHO HOLDS THE PRIVILEGE; AN EXCEPTION
19 TO THE PRIVILEGE APPLIES; OR DISCLOSURE OF THE INFORMATION IS
20 PERMITTED BY AN ATTORNEY PURSUANT TO 17 CFR 205.3 (d)(2), THE
21 APPLICABLE COLORADO RULES OF PROFESSIONAL CONDUCT, OR
22 OTHERWISE.

23 **24-31-1205. False claims action procedures - limitation on**
24 **action - standard of proof.** (1) A CIVIL ACTION PURSUANT TO SECTION
25 24-31-1204 MAY NOT BE BROUGHT AFTER THE LATER OF:

26 (a) MORE THAN SIX YEARS AFTER THE DATE ON WHICH THE
27 VIOLATION OF SECTION 24-31-1203 IS COMMITTED OR THE DATE ON WHICH

1 THE LAST IN A SERIES OF SUCH ACTS OR PRACTICES OCCURRED,
2 WHICHEVER IS LATER; OR

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

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

13 (I) CLARIFY AND ADD DETAIL, AND ADD ADDITIONAL DEFENDANTS,
14 TO THE CLAIMS IN WHICH THE STATE OR POLITICAL SUBDIVISION IS
15 INTERVENING; AND

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

19 (b) FOR STATUTE OF LIMITATIONS PURPOSES, ANY PLEADINGS BY
20 THE STATE OR POLITICAL SUBDIVISION RELATE BACK TO THE FILING DATE
21 OF THE ORIGINAL COMPLAINT FILED BY A PERSON PURSUANT TO SECTION
22 24-31-1204 (4), TO THE EXTENT THAT THE STATE'S OR POLITICAL
23 SUBDIVISION'S CLAIM ARISES OUT OF THE CONDUCT, TRANSACTIONS, OR
24 OCCURRENCES SET FORTH, OR ATTEMPTED TO BE SET FORTH, IN THE
25 ORIGINAL COMPLAINT.

26 (3) IN AN ACTION BROUGHT PURSUANT TO SECTION 24-31-1204,
27 THE STATE, POLITICAL SUBDIVISION, OR PERSON WHO BROUGHT THE

1 ACTION PURSUANT TO SECTION 24-31-1204 (4) MUST PROVE ALL
2 ESSENTIAL ELEMENTS OF THE CAUSE OF ACTION, INCLUDING DAMAGES, BY
3 A PREPONDERANCE OF THE EVIDENCE.

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

13 **24-31-1206. Jurisdiction.** AN ACTION DESCRIBED IN THIS PART 12
14 MAY BE BROUGHT IN ANY JUDICIAL DISTRICT IN WHICH THE DEFENDANT
15 OR, IN THE CASE OF MULTIPLE DEFENDANTS, ANY ONE DEFENDANT CAN BE
16 FOUND, RESIDES, OR TRANSACTS BUSINESS, OR IN WHICH AN ACT
17 PROSCRIBED BY SECTION 24-31-1203 OCCURRED. A PERSON BRINGING AN
18 ACTION PURSUANT TO THIS PART 12 SHALL FILE THE COMPLAINT IN A
19 DISTRICT COURT OR A FEDERAL COURT WITH JURISDICTION OVER THE
20 ACTION AND SHALL NOT FILE THE COMPLAINT IN ANY OTHER COURT. THE
21 APPROPRIATE DISTRICT COURT SHALL ISSUE A SUMMONS AS REQUIRED BY
22 THE COLORADO RULES OF CIVIL PROCEDURE AND SERVE THE SUMMONS AT
23 ANY PLACE.

24 **24-31-1207. False claims civil investigation demands.**
25 (1) WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE
26 THAT ANY PERSON, WHETHER IN THIS STATE OR ELSEWHERE, HAS ENGAGED
27 IN OR IS ENGAGING IN ANY VIOLATION OF SECTION 24-31-1203, THE

1 ATTORNEY GENERAL MAY:

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

14 (b) EXAMINE UNDER OATH ANY PERSON IN CONNECTION WITH THE
15 ALLEGED VIOLATIONS;

16 (c) EXAMINE ANY PROPERTY OR SAMPLE THEREOF, OR ANY
17 NONPRIVILEGED RECORD, BOOK, DOCUMENT, ACCOUNT, OR PAPER THE
18 ATTORNEY GENERAL DEEMS NECESSARY;

19 (d) MAKE TRUE COPIES, AT THE EXPENSE OF THE ATTORNEY
20 GENERAL, OF ANY NONPRIVILEGED RECORD, BOOK, DOCUMENT, ACCOUNT,
21 OR PAPER EXAMINED PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION,
22 WHICH COPIES MAY BE OFFERED INTO EVIDENCE IN LIEU OF THE ORIGINALS
23 THEREOF IN AN ACTION BROUGHT PURSUANT TO THIS PART 12; AND

24 (e) PURSUANT TO ANY ORDER OF ANY DISTRICT COURT, IMPOUND
25 ANY SAMPLE OF PROPERTY THAT IS MATERIAL TO ANY ALLEGED VIOLATION
26 OF THIS PART 12 AND RETAIN THE SAME IN THE ATTORNEY GENERAL'S
27 POSSESSION UNTIL COMPLETION OF ALL PROCEEDINGS UNDERTAKEN

1 PURSUANT TO THIS PART 12. A DISTRICT COURT SHALL NOT ISSUE AN
2 ORDER DESCRIBED IN THIS SUBSECTION (1)(e) WITHOUT GIVING FULL
3 OPPORTUNITY TO THE ACCUSED TO BE HEARD AND UNLESS THE ATTORNEY
4 GENERAL HAS PROVEN BY CLEAR AND CONVINCING EVIDENCE THAT THE
5 ORDER WILL NOT IMPAIR THE BUSINESS ACTIVITIES OF THE PERSON TO
6 WHOM THE ORDER IS DIRECTED.

7 (2) WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO
8 BELIEVE THAT A PERSON, WHETHER IN THIS STATE OR ELSEWHERE, HAS
9 ENGAGED IN OR IS ENGAGING IN A VIOLATION OF SECTION 24-31-1203, THE
10 ATTORNEY GENERAL MAY ISSUE SUBPOENAS TO REQUIRE THE
11 ATTENDANCE OF WITNESSES OR THE PRODUCTION OF DOCUMENTS,
12 ADMINISTER OATHS, CONDUCT HEARINGS IN AID OF ANY INVESTIGATION OR
13 INQUIRY, AND PRESCRIBE SUCH FORMS AS MAY BE NECESSARY TO
14 ADMINISTER THIS PART 12.

15 (3) THE ATTORNEY GENERAL MAY ISSUE SUBPOENAS TO ANY
16 PUBLIC OR PRIVATE CORPORATION OR PARTNERSHIP OR ASSOCIATION OR
17 GOVERNMENTAL ENTITY TO PRODUCE WITNESSES TO APPEAR AND GIVE
18 ORAL TESTIMONY AT INVESTIGATIVE HEARINGS. THE SUBPOENAS MAY
19 DESIGNATE WITH REASONABLE PARTICULARITY THE MATTERS ON WHICH
20 EXAMINATION IS REQUESTED. IN RESPONSE TO THE SUBPOENA, THE ENTITY
21 SHALL DESIGNATE ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING
22 AGENTS, OR DESIGNATE OTHER PERSONS, TO TESTIFY ON ITS BEHALF.

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

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

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

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

6 (b) THE ATTORNEY GENERAL MAY DESIGNATE REPRESENTATIVES,
7 INCLUDING COMPARABLE OFFICIALS OF THE STATE IN WHICH THE RECORDS
8 ARE LOCATED, TO INSPECT THE RECORDS ON BEHALF OF THE ATTORNEY
9 GENERAL.

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

22 (a) GRANT APPROPRIATE INJUNCTIVE RELIEF;

23 (b) REQUIRE ATTENDANCE OF OR THE PRODUCTION OF DOCUMENTS
24 BY THE PERSON, OR BOTH;

25 (c) GRANT OTHER OR FURTHER RELIEF AS MAY BE NECESSARY TO
26 OBTAIN COMPLIANCE BY THE PERSON.

27 **24-31-1208. Rule-making.** THE ATTORNEY GENERAL MAY

1 PROMULGATE RULES NECESSARY TO IMPLEMENT THIS PART 12.

2 **24-31-1209. Use of recoveries - false claims recovery cash fund**

3 - **creation.** (1) THE STATE TREASURER SHALL TRANSFER ALL PROCEEDS
4 RETAINED BY THE STATE FROM A FALSE CLAIMS ACTION BROUGHT
5 PURSUANT TO THIS PART 12 TO THE FALSE CLAIMS RECOVERY CASH FUND,
6 WHICH IS HEREBY CREATED.

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

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

15 (b) (I) WHEN PROCEEDS RETAINED BY THE STATE FROM A FALSE
16 CLAIMS ACTION ARE DEPOSITED INTO THE FUND, THE ATTORNEY GENERAL
17 SHALL DETERMINE THE AMOUNT OF THE PROCEEDS THAT SHOULD REMAIN
18 IN THE FUND FOR USE BY THE DEPARTMENT FOR THE COSTS OF CARRYING
19 OUT ITS DUTIES PURSUANT TO THIS PART 12.

20 (II) IF THE AMOUNT OF THE PROCEEDS IS EQUAL TO OR EXCEEDS
21 THE AMOUNT OF THE FALSE CLAIM PLUS THE DEPARTMENT'S COSTS, THE
22 ATTORNEY GENERAL SHALL DIRECT THE STATE TREASURER TO TRANSFER
23 TO THE ORIGINAL FUND FROM WHICH THE FALSE CLAIM WAS PAID AN
24 AMOUNT EQUAL TO THE FALSE CLAIM.

25 (III) IF THE AMOUNT OF THE PROCEEDS IS LESS THAN THE AMOUNT
26 OF THE FALSE CLAIM PLUS THE DEPARTMENT'S COSTS, THE ATTORNEY
27 GENERAL SHALL DIRECT THE STATE TREASURER TO TRANSFER TO THE

1 ORIGINAL FUND FROM WHICH THE FALSE CLAIM WAS PAID A PRO-RATED
2 AMOUNT BASED ON THE ACTUAL RECOVERY.

3 (4) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING
4 IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND
5 AND SHALL NOT BE CREDITED OR TRANSFERRED TO ANOTHER FUND.

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

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

20 (a) THE NUMBER OF ACTIONS BROUGHT BY THE ATTORNEY
21 GENERAL AND THE DISPOSITION OF THE ACTIONS;

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

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

27 (II) THE AMOUNT OF PROCEEDS RECOVERED IN EACH CASE,

1 CATEGORIZED BY THE AMOUNT RECOVERED AS DAMAGES, PENALTIES, AND
2 LITIGATION COSTS; AND

3 (III) IF APPLICABLE, THE PERCENTAGE OF THE PROCEEDS
4 RECOVERED AND THE TOTAL AMOUNT AWARDED TO A PRIVATE PERSON
5 WHO BROUGHT THE ACTION.

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

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

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

17 (2) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
18 REPORTING REQUIREMENT DESCRIBED IN THIS SECTION CONTINUES
19 INDEFINITELY.

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

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

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

3 **2-3-110.5. Fraud hotline - investigations - confidentiality -**
4 **access to records - definitions.** (3) (a) (II) The state auditor shall
5 forward all hotline calls alleging fraud by a medicaid recipient to the
6 department of health care policy and financing, ~~and~~ all calls alleging
7 fraud by a medicaid provider or contractor to the medicaid fraud control
8 unit of the office of the attorney general, AND ALL CALLS ALLEGING FRAUD
9 IN VIOLATION OF THE "COLORADO FALSE CLAIMS ACT", PART 12 OF
10 ARTICLE 31 OF TITLE 24, TO THE ATTORNEY GENERAL UNLESS THE
11 ALLEGATION RELATES TO A STATE EMPLOYEE IN THE PERFORMANCE OF
12 THE EMPLOYEE'S DUTIES.

13 **SECTION 5. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly; except
16 that, if a referendum petition is filed pursuant to section 1 (3) of article V
17 of the state constitution against this act or an item, section, or part of this
18 act within such period, then the act, item, section, or part will not take
19 effect unless approved by the people at the general election to be held in
20 November 2022 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.