

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

INTRODUCED

LLS NO. 25-0356.01 Conrad Imel x2313

HOUSE BILL 25-1275

HOUSE SPONSORSHIP

Soper and Zokaie,

SENATE SPONSORSHIP

Weissman and Frizell,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MISCONDUCT BY CRIME LABORATORY EMPLOYEES, AND,**
102 **IN CONNECTION THEREWITH, REQUIRING A CRIME LABORATORY**
103 **EMPLOYEE TO REPORT MISCONDUCT, REQUIRING NOTIFYING**
104 **CRIMINAL DEFENDANTS AND VICTIMS OF MISCONDUCT, AND**
105 **CREATING A PROCESS FOR A PERSON TO SEEK POST-CONVICTION**
106 **RELIEF BASED ON A CLAIM OF MISCONDUCT BY A CRIME**
107 **LABORATORY EMPLOYEE.**

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>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

The bill defines "knowing misconduct" as a voluntary act or omission or series of acts or omissions consciously performed by a crime laboratory employee (employee) as a result of effort or determination in which the employee is aware that the employee's conduct is improper and deceptive. The bill defines a "significant event" as an act or omission by an employee that is a gross deviation from the standard operation procedures or accreditation requirements of the crime laboratory, or requirements in law that were applicable at the time of the act or omission of the employee, that could substantially negatively affect the integrity of the crime laboratory activities.

The bill requires an employee to report witnessed or discovered knowing misconduct or a significant event (collectively, "wrongful action") to the director of the crime laboratory (director) or to the employee's immediate supervisor, who shall report it to the director. A director who receives a report shall investigate the alleged wrongful action. The bill requires a crime laboratory director to review all records of the crime laboratory to identify wrongful actions committed prior to July 1, 2025, by a current or former crime laboratory employee.

The director shall notify each district attorney who has jurisdiction over a pending case, or a case that resulted in conviction, that the employee worked on about the reported wrongful action and provide the district attorney with access to information about the wrongful action.

Upon receipt of a wrongful action report from a director, a district attorney shall notify the defendant in each case that the employee worked on about the alleged wrongful action. If the case involved a crime listed in the "Victim Rights Act", the district attorney shall also notify the victim about the alleged wrongful action, if the charges have been filed but the trial has not begun.

The bill establishes a defendant's right to counsel in matters involving an employee's wrongful action and a right to investigate the wrongful action, to request discovery related to the wrongful action, and to seek post-conviction relief based on the wrongful action. The bill permits a court to enter a protective order related to discovery requests.

The bill establishes a process for a defendant convicted in a case involving an employee's wrongful action to petition for post-conviction relief based on the wrongful action. If the defendant's petition for post-conviction relief asserts facts that, if true, demonstrate that a wrongful action was material to the case, the court shall decide the claim upon the merits after an evidentiary hearing. At the evidentiary hearing, the defendant has the burden to show that the employee committed the wrongful action and that the wrongful action is material to the case. If the defendant meets their burden, the court shall vacate the defendant's conviction and grant a new trial.

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

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

4 **PART 3**

5 **COLORADO FORENSIC SCIENCE INTEGRITY ACT**

6 **16-12-301. Short title.** THE SHORT TITLE OF THIS PART 3 IS THE
7 "COLORADO FORENSIC SCIENCE INTEGRITY ACT".

8 **16-12-302. Legislative declaration.** (1) THE GENERAL ASSEMBLY
9 FINDS AND DECLARES THAT:

10 (a) AN EFFECTIVE CRIMINAL JUSTICE SYSTEM REQUIRES THAT
11 CRIME LABORATORY EMPLOYEES ACT WITH INTEGRITY, AND THAT CRIME
12 LABORATORIES HAVE CONTROLS TO PREVENT AND DETECT KNOWING
13 MISCONDUCT AND VIOLATIONS OF PROCEDURES AND PROPERLY
14 INVESTIGATE AND REPORT MISCONDUCT WHEN IT OCCURS;

15 (b) PROSECUTORS, DEFENDANTS, AND VICTIMS DESERVE
16 TRANSPARENCY AND TO BE NOTIFIED OF MISCONDUCT BY CRIME
17 LABORATORY EMPLOYEES WHO HANDLE EVIDENCE USED IN CRIMINAL
18 CASES;

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

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

27 (2) THE GENERAL ASSEMBLY INTENDS THAT THIS PART 3 BE

1 LIBERALLY CONSTRUED TO ACCOMPLISH THE POLICIES DECLARED IN THIS
2 SECTION.

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

5 (1) "CRIME LABORATORY" MEANS A FORENSIC SERVICES PROVIDER
6 IN COLORADO THAT ASSISTS LAW ENFORCEMENT AGENCIES OR
7 PROSECUTORS BY PERFORMING SCIENTIFIC LABORATORY TESTING OR
8 EXAMINATION OF PHYSICAL EVIDENCE.

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

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

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

20 (5) "KNOWING MISCONDUCT" MEANS A VOLUNTARY ACT OR
21 OMISSION OR SERIES OF ACTS OR OMISSIONS CONSCIOUSLY PERFORMED BY
22 A CRIME LABORATORY EMPLOYEE AS A RESULT OF EFFORT OR
23 DETERMINATION IN WHICH THE EMPLOYEE IS AWARE THAT THE
24 EMPLOYEE'S CONDUCT IS IMPROPER AND DECEPTIVE. "KNOWING
25 MISCONDUCT" MAY INVOLVE, BUT IS NOT LIMITED TO INVOLVING, THE
26 MISHANDLING OR MANIPULATION OF PHYSICAL EVIDENCE OR DATA
27 ELEMENTS OR RESULTS, PRESENTING MISLEADING OR FALSE RESULTS,

1 CONCEALING MATERIAL INFORMATION, OR PRESENTING FALSE SWORN
2 TESTIMONY ABOUT THE EVIDENCE.

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

10 (7) "WRONGFUL ACTION" MEANS KNOWING MISCONDUCT OR A
11 SIGNIFICANT EVENT.

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

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

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

6 **16-12-305. Duty of crime laboratory to investigate wrongful**
7 **action - report to prosecuting attorney - record retention.** (1) (a) A
8 CRIME LABORATORY DIRECTOR WHO, ON OR AFTER JULY 1, 2025, RECEIVES
9 A REPORT OF WRONGFUL ACTION PURSUANT TO SECTION 16-12-304 OR
10 RECEIVES OTHER INFORMATION ABOUT AN ACT OR OMISSION BY A CRIME
11 LABORATORY EMPLOYEE THAT MAY CONSTITUTE WRONGFUL ACTION
12 SHALL INVESTIGATE THE CRIME LABORATORY EMPLOYEE'S ACTIONS. THE
13 INVESTIGATION MUST INCLUDE, BUT IS NOT LIMITED TO, IDENTIFYING ALL
14 CASES THAT THE CRIME LABORATORY EMPLOYEE HAS WORKED ON IN AN
15 OFFICIAL CAPACITY AT THE CRIME LABORATORY.

16 (b) (I) A CRIME LABORATORY DIRECTOR SHALL NOTIFY A DISTRICT
17 ATTORNEY ABOUT AN ALLEGED WRONGFUL ACTION BY A CRIME
18 LABORATORY EMPLOYEE IF:

19 (A) THE ALLEGED CONDUCT WOULD CONSTITUTE WRONGFUL
20 ACTION IF SUSTAINED;

21 (B) THE DISTRICT ATTORNEY HAS JURISDICTION OVER ANY CASE
22 THE CRIME LABORATORY EMPLOYEE WORKED ON IN AN OFFICIAL
23 CAPACITY; AND

24 (C) THE CASE THE DISTRICT ATTORNEY HAS JURISDICTION OVER IS
25 PENDING OR RESULTED IN A CONVICTION.

26 (II) (A) NO LATER THAN NINETY-ONE DAYS AFTER RECEIVING A
27 REPORT OF, OR INFORMATION ABOUT, WRONGFUL ACTION BY A CRIME

1 LABORATORY EMPLOYEE, THE CRIME LABORATORY DIRECTOR SHALL
2 NOTIFY, IN WRITING, EACH DISTRICT ATTORNEY WHO MUST BE NOTIFIED
3 PURSUANT TO SUBSECTION (1)(b)(I) OF THIS SECTION ABOUT THE
4 INVESTIGATION, THE NATURE OF THE REPORTED WRONGFUL ACTION, AND
5 THE STATUS OF THE INVESTIGATION. AS PART OF THE NOTIFICATION, THE
6 CRIME LABORATORY DIRECTOR SHALL PROVIDE EACH NOTIFIED DISTRICT
7 ATTORNEY A LIST OF CASES SUBJECT TO THE JURISDICTION OF THE
8 DISTRICT ATTORNEY THAT THE DIRECTOR HAS IDENTIFIED AS CASES THE
9 CRIME LABORATORY EMPLOYEE WORKED ON IN AN OFFICIAL CAPACITY,
10 INCLUDING CASES THAT ARE PENDING IN ANY STAGE OF THE JUDICIAL
11 PROCESS AND CASES IN WHICH THE DEFENDANT HAS BEEN CONVICTED.

12 (B) IF THE CRIME LABORATORY DIRECTOR HAS NOT COMPLETED
13 IDENTIFYING CASES AND CREATING THE LIST OF CASES DESCRIBED IN THIS
14 SUBSECTION (1)(b)(II) WITHIN THE NINETY-ONE-DAY PERIOD TO NOTIFY
15 EACH DISTRICT ATTORNEY, THE CRIME LABORATORY DIRECTOR SHALL
16 PROVIDE TO EACH DISTRICT ATTORNEY THE NOTICE REQUIRED IN
17 SUBSECTION (1)(b)(II)(A) OF THIS SECTION WITHOUT THE LIST OF CASES
18 BUT WITH AN ANTICIPATED TIMELINE FOR COMPLETION OF THE CASE
19 IDENTIFICATION PROCESS AND THE REASONS FOR THE DELAY. THE CRIME
20 LABORATORY DIRECTOR SHALL NOT DELAY THE INITIAL NOTICE OR THE
21 DISCLOSURE OF THE LIST OF CASES TO THE DISTRICT ATTORNEY WITH
22 JURISDICTION BECAUSE OF ONGOING INVESTIGATION OF THE WRONGFUL
23 ACTION.

24 (C) THE LIST OF CASES REQUIRED TO BE PROVIDED TO A DISTRICT
25 ATTORNEY PURSUANT TO THIS SUBSECTION (1)(b)(II) IS NOT A PUBLIC
26 RECORD. AFTER THE LIST IS PROVIDED TO A DISTRICT ATTORNEY, THE
27 CRIME LABORATORY DIRECTOR AND DISTRICT ATTORNEY SHALL DISCLOSE

1 THE LIST TO THE OFFICE OF STATE PUBLIC DEFENDER, THE OFFICE OF
2 ALTERNATE DEFENSE COUNSEL, AND AN ATTORNEY REPRESENTING A
3 CLIENT IN A CRIMINAL CASE INCLUDED IN THE LIST OF CASES, WHO SHALL
4 ONLY USE THE LIST FOR PURPOSES OF INVESTIGATION OR PREPARATION OF
5 POST-CONVICTION RELIEF OR TRIAL OF A DEFENDANT'S CASE.

6 (III) THE CRIME LABORATORY DIRECTOR SHALL PROVIDE TO THE
7 DISTRICT ATTORNEY ALL MATERIALS DISCOVERABLE BY THE DEFENDANT
8 IN A CASE PURSUANT TO SECTION 16-12-309 ON A TIMELY AND ONGOING
9 BASIS.

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

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

15 (II) TAKING STATEMENTS FROM ALL RELEVANT WITNESSES;

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

19 (IV) AN ASSESSMENT OF THE LABORATORY'S COMPLIANCE WITH
20 ANY LABORATORY ACCREDITATION, CERTIFICATION, OR LICENSURE
21 REQUIREMENTS RELEVANT TO THE ACTIONS DESCRIBED IN THE REPORT OF
22 WRONGFUL ACTION; AND

23 (V) A DETERMINATION OF WHETHER WRONGFUL ACTION
24 OCCURRED.

25 (b) A CRIME LABORATORY DIRECTOR MAY USE INDEPENDENT
26 EXPERTS TO CONDUCT OR ASSIST WITH AN INVESTIGATION. IF AN
27 INDEPENDENT EXPERT IS USED, THE CRIME LABORATORY DIRECTOR MUST

1 REQUEST STATEMENTS OR REPORTS FROM THE INDEPENDENT EXPERT.

2 (c) AT THE CONCLUSION OF THE INVESTIGATION, THE CRIME
3 LABORATORY DIRECTOR SHALL PREPARE A WRITTEN FINAL REPORT
4 DESCRIBING THE INVESTIGATION AND DETERMINATIONS. THE DIRECTOR
5 SHALL DELIVER THE REPORT TO EACH DISTRICT ATTORNEY WHO RECEIVED
6 A NOTIFICATION OF THE INVESTIGATION PURSUANT TO SUBSECTION (1)(b)
7 OF THIS SECTION AS PART OF THE ONGOING DUTY TO DISCLOSE
8 DISCOVERABLE MATERIALS REQUIRED IN SUBSECTION (1)(b)(III) OR (4)(c)
9 OF THIS SECTION.

10 (3) A CRIME LABORATORY MUST ADOPT POLICIES AND
11 PROCEDURES GOVERNING:

12 (a) THE TIME FRAMES FOR DISCLOSURE OF ALL INVESTIGATION
13 MATERIALS TO THE DISTRICT ATTORNEY OFFICES REQUIRED TO BE
14 PROVIDED ON AN ONGOING BASIS PURSUANT TO SUBSECTION (1)(b)(III) OR
15 (4)(c) OF THIS SECTION AND FOR DISCLOSURE OF THE WRITTEN FINAL
16 REPORT; AND

17 (b) THE PRESERVATION OF RECORDS RELATED TO WRONGFUL
18 ACTION REPORTS RECEIVED BY THE CRIME LABORATORY DIRECTOR AND
19 THE DIRECTOR'S INVESTIGATIONS AND INVESTIGATORY REPORTS. THE
20 POLICIES MUST REQUIRE THAT THE RECORDS ARE PRESERVED AT LEAST
21 THROUGH THE FINAL RESOLUTION OF LITIGATION IN ALL AFFECTED
22 CRIMINAL CASES AND ANY RELATED CIVIL CASES.

23 (4) (a) BEGINNING NO LATER THAN JULY 1, 2025, A CRIME
24 LABORATORY DIRECTOR SHALL, WITH ALL REASONABLE DILIGENCE,
25 REVIEW ALL RECORDS OF THE CRIME LABORATORY TO IDENTIFY
26 WRONGFUL ACTIONS BY A CURRENT OR FORMER CRIME LABORATORY
27 EMPLOYEE COMMITTED PRIOR TO JULY 1, 2025. IF AFTER THE REVIEW, THE

1 CRIME LABORATORY DIRECTOR DISCOVERS AN ALLEGATION OF WRONGFUL
2 ACTION BY A CRIME LABORATORY EMPLOYEE, THE CRIME LABORATORY
3 DIRECTOR SHALL COMPLY WITH THE REQUIREMENTS IN THIS SECTION,
4 INCLUDING THE REQUIREMENT TO NOTIFY A DISTRICT ATTORNEY; EXCEPT
5 THAT A CRIME LABORATORY DIRECTOR IS NOT REQUIRED TO INITIATE A
6 FURTHER INVESTIGATION INTO THE ALLEGED WRONGFUL ACTION IF THE
7 ALLEGATION WAS PREVIOUSLY INVESTIGATED AND THE INVESTIGATION
8 COMPLIED WITH THE REQUIREMENTS OF SUBSECTION (2)(a) OF THIS
9 SECTION. A CRIME LABORATORY DIRECTOR SHALL MAKE THE REQUIRED
10 NOTIFICATION TO A DISTRICT ATTORNEY AS SOON AS PRACTICABLE BUT NO
11 LATER THAN NINETY-ONE DAYS AFTER DISCOVERING AN ALLEGATION.

12 (b) IF, PRIOR TO JULY 1, 2025, A CRIME LABORATORY DIRECTOR
13 RECEIVED A REPORT OF WRONGFUL ACTION BY A CRIME LABORATORY
14 EMPLOYEE AND PROVIDED NOTICE TO A DISTRICT ATTORNEY OF THE
15 REPORTED WRONGFUL ACTION AND A LIST OF CASES THE CRIME
16 LABORATORY EMPLOYEE WORKED ON IN AN OFFICIAL CAPACITY, THE
17 CRIME LABORATORY DIRECTOR SHALL, NO LATER THAN SEPTEMBER 1,
18 2025, REVIEW THE NOTICE PROVIDED TO THE DISTRICT ATTORNEY TO
19 ENSURE THAT IT IS COMPLETE AND COMPLIES WITH THE REQUIREMENTS OF
20 THIS SECTION.

21 (c) AFTER SENDING A NOTICE, THE CRIME LABORATORY AND CRIME
22 LABORATORY DIRECTOR SHALL PROVIDE ALL MATERIALS DESCRIBED IN
23 SECTION 16-12-309 (2) TO THE DISTRICT ATTORNEYS AS SOON AS
24 PRACTICABLE AND ON AN ONGOING BASIS THROUGH THE CONCLUSION OF
25 POST-CONVICTION PROCEEDINGS. THE DIRECTOR SHALL RESPOND TO ANY
26 REQUESTS FOR DISCOVERABLE MATERIAL FROM THE DISTRICT ATTORNEY
27 BY PROVIDING THE REQUESTED MATERIALS OR BY RESPONDING IN WRITING

1 WITHIN FOURTEEN DAYS AFTER RECEIVING THE REQUEST THAT THE
2 REQUESTED MATERIALS DO NOT EXIST.

3 **16-12-306. Prosecution duty to notify defendants and**
4 **defendants' counsel - content of notice.** (1) A DISTRICT ATTORNEY WHO

5 RECEIVES NOTIFICATION FROM A CRIME LABORATORY DIRECTOR OF AN
6 INVESTIGATION INTO WRONGFUL ACTION BY A CRIME LABORATORY
7 EMPLOYEE SHALL NOTIFY THE DEFENDANT IN EACH CASE WITHIN THE
8 DISTRICT ATTORNEY'S JURISDICTION IDENTIFIED BY THE CRIME
9 LABORATORY DIRECTOR OF THE INVESTIGATION ABOUT THE REPORTED
10 WRONGFUL ACTION AS SOON AS PRACTICABLE AFTER RECEIVING THE
11 NOTIFICATION FROM THE CRIME LABORATORY DIRECTOR BUT NO LATER
12 THAN NINETY-ONE DAYS AFTER RECEIVING THE NOTIFICATION FROM THE
13 CRIME LABORATORY DIRECTOR, UNLESS COURT RULES OR LAW REQUIRES
14 AN EARLIER DEADLINE FOR DISCLOSURE.

15 (2) THE NOTICE TO THE DEFENDANT MUST STATE THAT THERE IS A
16 REPORT OF WRONGFUL ACTION BY A CRIME LABORATORY EMPLOYEE
17 INVOLVED IN THE DEFENDANT'S CASE AND THAT THE LAW REQUIRES THE
18 REPORTED CONDUCT TO BE INVESTIGATED. THE NOTICE MUST INCLUDE:

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

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

24 (c) A STATEMENT THAT THE DEFENDANT HAS:

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

1 INTEGRITY ACT";

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

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

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

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

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

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

22 (I) THE DEFENDANT IS IN CUSTODY IN JAIL OR A CORRECTIONAL
23 FACILITY, THE DISTRICT ATTORNEY SHALL NOTIFY THE DEFENDANT VIA
24 REGULAR MAIL AT THE DEFENDANT'S PLACE OF INCARCERATION AND
25 NOTIFY THE OFFICE OF THE PUBLIC DEFENDER BY EMAIL AT THE EMAIL
26 ADDRESS DESCRIBED IN SUBSECTION (3)(c) OF THIS SECTION; OR

27 (II) THE DEFENDANT IS NOT IN CUSTODY IN JAIL OR A

1 CORRECTIONAL FACILITY, THE DISTRICT ATTORNEY SHALL NOTIFY THE
2 DEFENDANT, BY PERSONAL SERVICE OR REGISTERED MAIL, AT THE
3 DEFENDANT'S LAST-KNOWN ADDRESS AND THE ADDRESS OF THE
4 DEFENDANT'S LAST-KNOWN COUNSEL OR IF THE DEFENDANT'S
5 LAST-KNOWN COUNSEL WAS THE PUBLIC DEFENDER, NOTIFY THE OFFICE OF
6 PUBLIC DEFENDER BY EMAIL AT THE EMAIL ADDRESS DESCRIBED IN
7 SUBSECTION (3)(c) OF THIS SECTION.

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

12 (4) A DISTRICT ATTORNEY WHO, AFTER JULY 1, 2025, RECEIVES
13 NOTIFICATION FROM A CRIME LABORATORY DIRECTOR ABOUT WRONGFUL
14 ACTION BY A CRIME LABORATORY EMPLOYEE THAT OCCURRED BEFORE
15 JULY 1, 2025, SHALL NOTIFY DEFENDANTS ABOUT THE WRONGFUL ACTION
16 AS SOON AS PRACTICABLE IN THE MANNER DESCRIBED IN THIS SECTION,
17 BUT NOT LATER THAN NINETY-ONE DAYS AFTER RECEIPT OF THE
18 NOTIFICATION FROM THE CRIME LABORATORY DIRECTOR.

19 (5) A DISTRICT ATTORNEY WHO, PRIOR TO JULY 1, 2025, RECEIVED
20 NOTICE OF WRONGFUL ACTION BY A CRIME LABORATORY EMPLOYEE AND
21 A LIST OF CASES THAT THE CRIME LABORATORY EMPLOYEE WORKED ON IN
22 AN OFFICIAL CAPACITY SHALL COMPLY, BEFORE SEPTEMBER 1, 2025, WITH
23 THE DISCLOSURE REQUIREMENTS OF THIS SECTION FOR ALL CASES IN THE
24 LIST OF CASES IN WHICH THERE WAS A CONVICTION.

25 **16-12-307. Duty to notify victims.** (1) WHEN A DISTRICT
26 ATTORNEY RECEIVES A NOTICE OF WRONGFUL ACTION COMMITTED BY A
27 CRIME LABORATORY EMPLOYEE AND A CRIMINAL CASE IDENTIFIED IN THE

1 NOTICE INVOLVES A CRIME LISTED IN SECTION 24-4.1-302 (1), THE
2 DISTRICT ATTORNEY SHALL, AS REQUIRED IN SUBSECTION (2) OF THIS
3 SECTION, NOTIFY EACH VICTIM OF THE CRIME ABOUT THE INVESTIGATION
4 AND THE NATURE OF THE ALLEGED WRONGFUL ACTION.

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

15 **16-12-308. Defendant's right to counsel.** (1) A DEFENDANT HAS
16 THE RIGHT TO COUNSEL TO INVESTIGATE, FILE, AND LITIGATE A
17 POST-CONVICTION CLAIM ARISING FROM WRONGFUL ACTION AND APPEALS
18 ARISING FROM THE CLAIM. THE RIGHT TO COUNSEL FOR ASSISTANCE WITH
19 POST-CONVICTION CLAIMS PURSUANT TO THIS PART 3, INCLUDING THE
20 RIGHT FOR AN INDIGENT PERSON TO HAVE THE ASSISTANCE OF
21 COURT-APPOINTED COUNSEL, ATTACHES WHEN A DEFENDANT RECEIVES A
22 NOTICE PURSUANT TO SECTION 16-12-306 OR MAKES A SHOWING THAT A
23 CRIME LABORATORY EMPLOYEE WORKED ON THEIR CASE AND IS THE
24 SUBJECT OF AN INVESTIGATION OF WRONGFUL ACTION. A DEFENDANT IS
25 NOT REQUIRED TO FILE A PETITION FOR POST-CONVICTION RELIEF TO
26 RECEIVE COURT-APPOINTED COUNSEL.

27 (2) (a) A DEFENDANT MAY REQUEST COUNSEL BY FILING A

1 WRITTEN REQUEST FOR COUNSEL WITH THE COURT AND ATTACHING A
2 COPY OF THE NOTICE RECEIVED PURSUANT TO SECTION 16-12-306 OR A
3 PLEADING THAT NAMES A CRIME LABORATORY EMPLOYEE AND PROVIDES
4 SUFFICIENT INFORMATION FOR THE COURT TO FIND THAT THE CRIME
5 LABORATORY IS THE SUBJECT OF AN INVESTIGATION OF WRONGFUL
6 ACTION.

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

11 (3) A PUBLIC DEFENDER WHO HAS RECEIVED A REQUEST FOR
12 ASSISTANCE FROM A DEFENDANT WHO RECEIVED A NOTICE PURSUANT TO
13 SECTION 16-12-306, OR FROM A DEFENDANT WHO CAN MAKE A SHOWING
14 THAT A CRIME LABORATORY EMPLOYEE COMMITTED A WRONGFUL ACTION,
15 MAY REQUEST APPOINTMENT BY THE COURT IF THE DEFENDANT QUALIFIES
16 FOR REPRESENTATION BY COURT-APPOINTED COUNSEL.

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

24 **16-12-309. Discovery and expert witness disclosure -**
25 **procedures - construction consistent with court rules.** (1) (a) A
26 DEFENDANT HAS A RIGHT TO DISCOVERY RELATED TO THE WRONGFUL
27 ACTION:

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

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

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

10 (c) UPON RECEIVING A VALID DISCOVERY REQUEST OR A COURT
11 ORDER TO PROVIDE DISCOVERY, THE DISTRICT ATTORNEY SHALL PROVIDE
12 DISCOVERY TO THE DEFENDANT PURSUANT TO THIS SECTION AS SOON AS
13 PRACTICABLE AND ON AN ONGOING BASIS THROUGH THE CONCLUSION OF
14 POST-CONVICTION PROCEEDINGS. THE DISTRICT ATTORNEY SHALL
15 REQUEST, PURSUANT TO SECTION 16-12-305 (4)(c), DISCOVERABLE
16 MATERIAL FROM A CRIME LABORATORY THAT MAY BE IN THE POSSESSION
17 OF THE CRIME LABORATORY BUT HAS NOT BEEN PROVIDED TO THE
18 DISTRICT ATTORNEY.

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

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

26 (b) ALL STATEMENTS, TRANSCRIPTS, AND REPORTS ABOUT THE
27 WRONGFUL ACTION OR INVESTIGATION OF THE WRONGFUL ACTION,

1 INCLUDING, BUT NOT LIMITED TO, STATEMENTS, TRANSCRIPTS, AND
2 REPORTS FROM THE CRIME LABORATORY, LAW ENFORCEMENT AGENCIES
3 OR OFFICERS, AND THIRD PARTIES CONTRACTED TO INVESTIGATE THE
4 WRONGFUL ACTION;

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

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

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

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

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

26 (h) ANY OTHER MATERIAL REGARDING THE WRONGFUL ACTION
27 THAT IS REQUESTED BY THE DEFENDANT THAT MAY BE RELEVANT TO

1 DEMONSTRATING THE WRONGFUL ACTION OR MATERIALITY OF THE
2 WRONGFUL ACTION IN THE DEFENDANT'S CASE.

3 (3) ANY PARTY MAY FILE A MOTION FOR A COURT ORDER TO ASSIST
4 IN OBTAINING DISCOVERY PURSUANT TO THIS SECTION. WHEN MATERIAL
5 IS REASONABLY BELIEVED TO EXIST AND IS REQUIRED TO BE PROVIDED
6 PURSUANT TO THIS SECTION, BUT HAS NOT BEEN PROVIDED IN RESPONSE
7 TO PROPER REQUESTS, A SUBPOENA MAY BE ISSUED FOR SUCH MATERIAL.

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

11 (5) UNLESS OTHERWISE PROVIDED IN THIS SECTION,
12 POST-CONVICTION DISCOVERY RIGHTS MUST BE INTERPRETED CONSISTENT
13 WITH DISCOVERY RULES AND OBLIGATIONS UNDER THE COLORADO RULES
14 OF CRIMINAL PROCEDURE, STATE LAW, AND THE STATE AND FEDERAL
15 CONSTITUTIONS.

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

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

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

26 (II) ASSISTS IN ENSURING MATERIALS FURNISHED IN DISCOVERY
27 ARE ONLY PROVIDED TO A PERSON TO PREPARE A CLAIM FOR

1 POST-CONVICTION RELIEF OR TO PREPARE FOR TRIAL OF A CASE;

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

3 (IV) THE COURT DEEMS NECESSARY.

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

10 **16-12-310. Petition for post-conviction relief - petition**

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

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

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

27 (b) A STATEMENT OF THE RELEVANT PROCEDURAL HISTORY OF THE

1 DEFENDANT'S CASE, INCLUDING THE CRIMES FOR WHICH THE DEFENDANT
2 WAS CONVICTED;

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

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

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

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

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

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

5 (7) THE COURT SHALL NOT DENY A CLAIM BROUGHT PURSUANT TO
6 THIS SECTION ON THE GROUNDS THAT THE WRONGFUL ACTION COULD OR
7 SHOULD HAVE BEEN DISCOVERED THROUGH THE EXERCISE OF DUE
8 DILIGENCE BEFORE THE DEFENDANT RECEIVED A NOTICE OF REPORTED
9 WRONGFUL ACTION AS DESCRIBED IN SECTION 16-12-306 (1). IT IS
10 PRESUMED THAT PRIOR TO RECEIVING A NOTICE PURSUANT TO SECTION
11 16-12-306 (1) THAT THE DEFENDANT AND THEIR COUNSEL DO NOT KNOW
12 ABOUT THE WRONGFUL ACTION BY A CRIME LABORATORY, AND THAT
13 PRESUMPTION CONSTITUTES AN OBJECTIVE FACTOR, EXTERNAL TO THE
14 DEFENSE, WHICH MADE RAISING ANY CLAIM RELATED TO THE WRONGFUL
15 ACTION IMPRACTICABLE PRIOR TO RECEIPT OF THE NOTICE.

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

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

27 **16-12-311. Time limitation on post-conviction petition for**

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

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

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

14 (2) A COURT MAY PERMIT A DEFENDANT TO FILE A CLAIM AFTER
15 THE TIME PERIOD DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION HAS
16 EXPIRED ONLY UPON A SHOWING OF:

- 17 (a) JUSTIFIABLE EXCUSE OR EXCUSABLE NEGLECT; OR
18 (b) GOOD CAUSE, IF THE DEFENDANT IS CONDUCTING SUBSTANTIAL
19 AND DILIGENT WORK TO BRING THE CLAIM.

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

- 22 (a) IF A DEFENDANT IS ADJUDICATED TO BE INCOMPETENT, UNTIL
23 THE COURT FINDS THAT THE DEFENDANT IS RESTORED TO COMPETENCY;
24 (b) FOR ANY TIME PERIOD DURING WHICH THE TRIAL COURT LACKS
25 JURISDICTION, INCLUDING, BUT NOT LIMITED TO, ANY TIME PERIOD
26 JURISDICTION IS IN AN APPELLATE COURT DUE A PENDING APPEAL; AND
27 (c) FOR ANY TIME PERIOD DURING WHICH A DEFENDANT'S WRITTEN

1 REQUEST FOR COUNSEL MADE PURSUANT TO SECTION 16-12-308 IS
2 PENDING UNTIL COUNSEL IS APPOINTED OR THE COURT DENIES THE
3 MOTION.

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

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

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

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

24 (II) DESIGNATE A WITNESS AS AN EXPERT AND DESIGNATE THE
25 AREA IN WHICH THE PARTY WILL SEEK TO QUALIFY THE EXPERT. SUBJECT
26 TO CONSTITUTIONAL LIMITATIONS, THE COURT SHALL ORDER THE PARTIES
27 TO PROVIDE A REPORT FROM THE DESIGNATED EXPERT OR SUMMARY OF

1 THE EXPERT'S TESTIMONY THAT ALLOWS THE OPPOSING PARTY TO PREPARE
2 TO RESPOND TO THE EXPERT'S TESTIMONY.

3 (b) UPON THE REQUEST OF A PARTY, THE COURT MAY GRANT
4 ADDITIONAL DISCRETIONARY DISCLOSURES TO EFFECTUATE FAIR
5 PREPARATION AND PRESENTATION OF EVIDENCE BY THE OPPOSING PARTY.
6 IN CASE OF LATE OR INCOMPLETE DISCLOSURE, THE COURT HAS THE
7 DISCRETION TO ENTER ORDERS TO CURE OR REMEDY A VIOLATION OF THIS
8 SUBSECTION (2).

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

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

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

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

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

21 (5) FOR THE PURPOSES OF THIS SECTION, WRONGFUL ACTION IS
22 MATERIAL TO THE CASE IF, WHEN CONSIDERED IN THE TOTALITY OF THE
23 CASE, THERE IS A REASONABLE PROBABILITY THAT, BUT FOR THE
24 WRONGFUL ACTION, THE RESULT OF THE PROCEEDING WOULD HAVE BEEN
25 DIFFERENT. WRONGFUL ACTION MAY BE MATERIAL TO THE CASE IF IT
26 SIGNIFICANTLY IMPEACHES OR CASTS DOUBT UPON THE ACCURACY OF
27 PHYSICAL EVIDENCE TESTING, THE PRESENTATION OF TEST RESULTS, OR

1 TESTIMONY ABOUT THE TESTING OF PHYSICAL EVIDENCE BY A CRIME
2 LABORATORY EMPLOYEE OR OTHER WITNESS. THERE IS A REASONABLE
3 PROBABILITY THAT THE RESULT OF THE PROCEEDING WOULD HAVE BEEN
4 DIFFERENT IF THERE IS EVIDENCE SUFFICIENT TO UNDERMINE CONFIDENCE
5 IN THE VERDICT OR GUILTY PLEA.

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

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

10 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
11 order to preserve and protect a victim's rights to justice and due process,
12 each victim of a crime has the following rights:

13 (b.10) THE RIGHT TO BE INFORMED, PURSUANT TO SECTION
14 16-12-307, OF WRONGFUL ACTION BY A CRIME LABORATORY EMPLOYEE IN
15 A CASE INVOLVING A CRIME LISTED IN SECTION 24-4.1-302 (1).

16 **SECTION 3. Applicability.** This act applies to claims for relief
17 filed on or after the effective date of this act that are based on knowing
18 misconduct or a significant event, as defined in this act, that occurred
19 before, on, or after the effective date of this act.

20 **SECTION 4. Safety clause.** The general assembly finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, or safety or for appropriations for
23 the support and maintenance of the departments of the state and state
24 institutions.