

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 13-0756.01 Michael Dohr x4347

**SENATE BILL 13-122**

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**SENATE SPONSORSHIP**

**Lambert, Lundberg**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**

Judiciary  
State, Veterans, & Military Affairs

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE RIGHTS OF PERSONS IN CRIMINAL PROCEEDINGS.**

**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://www.leg.state.co.us/billsummaries>.)*

The bill creates a new part for criminal defendant's rights that includes requiring:

- ! The prosecution to provide all discovery documents to the defendant at no cost to the defendant;
- ! The prosecution to provide all discovery in its possession within 20 days from the defendant's first appearance and any discovery it receives after that date within 72 hours of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*



1           **16-9-701. Discovery - no cost to the defendant - timing .**

2           (1) THE PROSECUTION SHALL PROVIDE ALL DISCOVERY DOCUMENTS TO  
3 THE DEFENDANT AT NO COST TO THE DEFENDANT.

4           (2) (a) THE PROSECUTION SHALL PROVIDE THE DEFENDANT WITH  
5 ALL DISCOVERY IN ITS POSSESSION WITHIN TWENTY DAYS FROM THE  
6 DEFENDANT'S FIRST APPEARANCE AND SHALL PROVIDE ANY DISCOVERY IT  
7 RECEIVES AFTER THAT DATE WITHIN SEVENTY-TWO HOURS OF THE DATE  
8 WHEN THE PROSECUTION RECEIVES THE DISCOVERY.

9           (b) THE PROSECUTION SHALL PROVIDE ALL RELEVANT  
10 INFORMATION FROM THE GRAND JURY PROCEEDINGS IN ITS DISCOVERY.

11           **16-9-702. Defendant's rights - hearings and motions.** (1) IF  
12 THE DEFENDANT FILES A MOTION AT LEAST TEN DAYS PRIOR TO THE TRIAL  
13 DATE, THE COURT SHALL PROVIDE A WRITTEN RULING ON THE MOTION.  
14 THE COURT MAY PROVIDE A WRITTEN RULING UPON ANY OTHER MOTION  
15 FILED BY THE DEFENDANT.

16           (2) THE COURT SHALL HOLD A HEARING ON A DEFENDANT'S  
17 MOTION TO DISMISS.

18           **SECTION 2.** In Colorado Revised Statutes, 16-5-401, **add** (4.3)  
19 as follows:

20           **16-5-401. Limitation for commencing criminal proceedings**  
21 **and juvenile delinquency proceedings.** (4.3) THE STATUTE OF  
22 LIMITATIONS FOR A VIOLATION OF SECTION 39-21-118, C.R.S., BEGINS TO  
23 RUN ON THE DATE THE TAX RETURN IS DUE.

24           **SECTION 3.** In Colorado Revised Statutes, 18-1-202, **add** (14)  
25 as follows:

26           **18-1-202. Place of trial.** (14) IF A PERSON IS CHARGED WITH A  
27 VIOLATION OF SECTION 39-21-118, C.R.S., THE PERSON MUST BE TRIED IN

1 THE COUNTY WHERE THE TAX RETURN WAS MAILED OR DELIVERED OR  
2 WHERE THE PERSON LIVED IF NO RETURN IS FILED, AND THE CASE MUST BE  
3 PROSECUTED BY THE DISTRICT ATTORNEY FOR THAT JUDICIAL DISTRICT.  
4 ONLY THE DEFENDANT MAY FILE A REQUEST FOR A CHANGE OF VENUE.

5 **SECTION 4.** In Colorado Revised Statutes, 39-21-118, **amend**  
6 (1) and (2); and **add** (6), (7), (8), (9), (10), and (11) as follows:

7 **39-21-118. Criminal penalties.** (1) (a) Any person who willfully  
8 attempts in any manner to evade or defeat any tax IN EXCESS OF THREE  
9 THOUSAND DOLLARS administered by the department or the payment  
10 thereof, in addition to other penalties provided by law, is guilty of a class  
11 5 felony and, upon conviction thereof, shall be punished as provided in  
12 section 18-1.3-401, C.R.S., or shall be punished by a fine of not more  
13 than one hundred thousand dollars, or five hundred thousand dollars in  
14 the case of a corporation, or by both such fine and imprisonment, together  
15 with the costs of prosecution.

16 (b) ANY PERSON WHO WILLFULLY ATTEMPTS IN ANY MANNER TO  
17 EVADE OR DEFEAT ANY TAX THAT IS THREE THOUSAND DOLLARS OR LESS  
18 ADMINISTERED BY THE DEPARTMENT OR THE PAYMENT THEREOF, IN  
19 ADDITION TO OTHER PENALTIES PROVIDED BY LAW, IS GUILTY OF A CLASS  
20 1 MISDEMEANOR. IF THE PERSON IS CONVICTED OF A VIOLATION OF THIS  
21 PARAGRAPH (b) AND HAS NOT BEEN PREVIOUSLY CONVICTED OF A  
22 VIOLATION OF THIS SECTION, THE COURT SHALL REQUIRE THE DEFENDANT  
23 TO PAY THE TAX OWED AND A FINE EQUAL TO TWENTY-FIVE PERCENT OF  
24 THE TAX OWED AND MAY IMPOSE A SENTENCE OF PROBATION NOT TO  
25 EXCEED ONE YEAR.

26 (2) (a) Any person required, or any person who purports to be  
27 required, under any title administered by the department to collect,

1 account for, or pay over any tax IN EXCESS OF THREE THOUSAND DOLLARS,  
2 who willfully fails to collect or truthfully account for or pay over such  
3 tax, including, but not limited to, willfully making a materially false  
4 statement in connection with an application for a refund of any tax for the  
5 purpose of falsely obtaining a refund of such tax, in addition to other  
6 penalties provided by law, is guilty of a class 5 felony and, upon  
7 conviction thereof, shall be punished as provided in section 18-1.3-401,  
8 C.R.S., or shall be punished by a fine of not more than one hundred  
9 thousand dollars, or five hundred thousand dollars in the case of a  
10 corporation, or by both such fine and imprisonment, together with the  
11 costs of prosecution.

12 (b) ANY PERSON REQUIRED, OR ANY PERSON WHO PURPORTS TO BE  
13 REQUIRED, UNDER ANY TITLE ADMINISTERED BY THE DEPARTMENT TO  
14 COLLECT, ACCOUNT FOR, OR PAY OVER ANY TAX THAT IS THREE THOUSAND  
15 DOLLARS OR LESS, WHO WILLFULLY FAILS TO COLLECT OR TRUTHFULLY  
16 ACCOUNT FOR OR PAY OVER SUCH TAX, INCLUDING BUT NOT LIMITED TO  
17 WILLFULLY MAKING A MATERIALLY FALSE STATEMENT IN CONNECTION  
18 WITH AN APPLICATION FOR A REFUND OF ANY TAX FOR THE PURPOSE OF  
19 FALSELY OBTAINING A REFUND OF SUCH TAX, IN ADDITION TO OTHER  
20 PENALTIES PROVIDED BY LAW, IS GUILTY OF A CLASS 1 MISDEMEANOR. IF  
21 THE PERSON IS CONVICTED OF A VIOLATION OF THIS PARAGRAPH (b) AND  
22 HAS NOT BEEN PREVIOUSLY CONVICTED OF A VIOLATION OF THIS SECTION,  
23 THE COURT SHALL REQUIRE THE DEFENDANT TO PAY THE TAX OWED AND  
24 A FINE EQUAL TO TWENTY-FIVE PERCENT OF THE TAX OWED AND MAY  
25 IMPOSE A SENTENCE OF PROBATION NOT TO EXCEED ONE YEAR.

26 (6) (a) AN AGENCY THAT IS INVESTIGATING A PERSON FOR A  
27 VIOLATION OF THIS SECTION SHALL NOTIFY THE PERSON OF THE

1 INVESTIGATION WITHIN AT LEAST SEVEN DAYS OF STARTING THE  
2 INVESTIGATION.

3 (b) A PERSON MAY NOT BE CHARGED WITH A VIOLATION OF THIS  
4 SECTION UNTIL ALL ADMINISTRATIVE AND CIVIL APPEAL REMEDIES HAVE  
5 BEEN EXHAUSTED PURSUANT TO SECTIONS 39-21-103 AND 39-21-105.

6 (7) IN A CASE FOR A VIOLATION OF THIS SECTION, IF THE UNITED  
7 STATES INTERNAL REVENUE SERVICE RULES THAT THE DEFENDANT HAS NO  
8 UNTAXED FEDERAL INCOME FOR THE TAX YEAR RELATED TO THE CHARGES  
9 IN THIS SECTION, THE COURT SHALL DISMISS ALL CHARGES RELATED TO  
10 THIS SECTION AGAINST THE DEFENDANT WITH PREJUDICE.

11 (8) IF A DISTRICT ATTORNEY INTENDS TO CHARGE A PERSON WITH  
12 A VIOLATION OF THIS SECTION, THE DISTRICT ATTORNEY SHALL NOTIFY  
13 THE PERSON OF HIS OR HER INTENT AND REQUEST THAT THE PERSON  
14 SURRENDER TO LOCAL LAW ENFORCEMENT WITHIN TWENTY-FOUR HOURS.  
15 IF THE PERSON DOES NOT SURRENDER TO LOCAL LAW ENFORCEMENT, THE  
16 PERSON MAY BE ARRESTED.

17 (9) FOR A DEFENDANT CHARGED WITH A VIOLATION OF THIS  
18 SECTION, THE COURT MAY NOT SET A MONETARY BOND IN EXCESS OF THE  
19 AMOUNT OF TAX OWED AS SPECIFIED IN THE CHARGING DOCUMENT  
20 EXCLUDING INTEREST.

21 (10) IF A DEFENDANT IS ACQUITTED OF ANY VIOLATION OF THIS  
22 SECTION OR HAS A CHARGE FOR A VIOLATION OF THIS SECTION DISMISSED  
23 BY THE COURT OR AN APPELLATE COURT, THE COURT SHALL ENTER AN  
24 ORDER FOR ATTORNEY FEES AND COSTS AND ACTUAL DAMAGES FOR THE  
25 DEFENDANT. THE DISTRICT ATTORNEY IS LIABLE FOR THE ATTORNEY FEES  
26 AND COSTS AND ACTUAL DAMAGES.

27 (11) (a) IF A DEFENDANT APPEALS A CONVICTION PURSUANT TO

1 THIS SECTION, ALL REQUESTED TRANSCRIPTS NECESSARY FOR THE APPEAL  
2 SHALL BE DELIVERED TO THE DEFENDANT WITHIN NINETY DAYS OF THE  
3 DEFENDANT'S WRITTEN REQUEST.

4 (b) IN AN APPEAL RELATED TO A CONVICTION FOR A VIOLATION OF  
5 THIS SECTION, THE COURT OF APPEALS OR SUPREME COURT SHALL ISSUE  
6 ITS OPINION WITHIN ONE YEAR AFTER THE DEFENDANT FILES HIS OR HER  
7 NOTICE OF APPEAL.

8 **SECTION 5.** In Colorado Revised Statutes, **add** 39-21-118.5 as  
9 follows:

10 **39-21-118.5. Civil penalty - failure to file a tax return.**

11 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON WHO  
12 FAILS TO FILE A STATE TAX RETURN IS SUBJECT TO A CIVIL PENALTY OF ONE  
13 HUNDRED DOLLARS.

14 (2) THIS SECTION MAY ONLY BE ENFORCED BY THE DISTRICT  
15 ATTORNEY FOR THE JURISDICTION IN WHICH THE PERSON WHO FAILED TO  
16 FILE THE TAX RETURN LIVED AT THE TIME OF THE FAILURE TO FILE. THE  
17 DISTRICT ATTORNEY MUST SHOW BY A PREPONDERANCE OF THE EVIDENCE  
18 THAT THE PERSON FAILED TO FILE A STATE TAX RETURN FOR THE COURT TO  
19 FIND A VIOLATION OF THIS SECTION.

20 **SECTION 6. Safety clause.** The general assembly hereby finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, and safety.