

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-0545.01 Esther van Mourik x4215

SENATE BILL 18-035

SENATE SPONSORSHIP

Gardner and Cooke,

HOUSE SPONSORSHIP

Wist,

Senate Committees
Judiciary

House Committees
Judiciary

HOUSE
3rd Reading Unamended
February 14, 2018

A BILL FOR AN ACT

101 **CONCERNING THE NONSUBSTANTIVE RELOCATION OF LAWS RELATED**
102 **TO GAMBLING PAYMENT INTERCEPT FROM TITLE 24, COLORADO**
103 **REVISED STATUTES, TO A NEW TITLE 44 AS PART OF THE**
104 **ORGANIZATIONAL RECODIFICATION OF TITLE 12.**

HOUSE
2nd Reading Unamended
February 13, 2018

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/>.)

SENATE
3rd Reading Unamended
January 23, 2018

Committee on Legal Services. Current law directs the office of legislative legal services to study the organizational recodification of title 12 of the Colorado Revised Statutes, which relates to professions and

SENATE
Amended 2nd Reading
January 22, 2018

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.

1 LAWS THAT DID NOT PERTAIN TO THE REGULATION OF PROFESSIONS AND
2 OCCUPATIONS AND WERE NOT ADMINISTERED BY THE DEPARTMENT OF
3 REGULATORY AGENCIES;

4 (c) WITH THE ENACTMENT OF SECTION 2-3-510 IN 2016, THE
5 GENERAL ASSEMBLY DIRECTED THE OFFICE OF LEGISLATIVE LEGAL
6 SERVICES TO STUDY AN ORGANIZATIONAL RECODIFICATION OF TITLE 12 OF
7 THE COLORADO REVISED STATUTES, INCLUDING RELOCATING LAWS THAT
8 DO NOT PERTAIN TO PROFESSIONS AND OCCUPATIONS AND ARE NOT
9 ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES;

10 (d) BASED ON RECOMMENDATIONS FROM THE TITLE 12
11 RECODIFICATION STUDY, THE GENERAL ASSEMBLY ENACTED SEVERAL
12 BILLS IN THE 2017 LEGISLATIVE SESSION TO RELOCATE OUT OF TITLE 12
13 MANY LAWS THAT ARE ADMINISTERED BY ENTITIES OTHER THAN THE
14 DEPARTMENT OF REGULATORY AGENCIES;

15 (e) THE STUDY ALSO RECOMMENDED CREATING A NEW TITLE 44
16 FOR PURPOSES OF CONSOLIDATING LAWS ADMINISTERED BY THE
17 DEPARTMENT OF REVENUE THAT REGULATE ACTIVITIES INTO A SINGLE
18 TITLE IN ORDER TO FACILITATE BOTH:

19 (I) THE PUBLIC'S AND REGULATED ENTITIES' UNDERSTANDING OF
20 THE LAWS THAT APPLY TO THEM; AND

21 (II) THE DEPARTMENT OF REVENUE'S ADMINISTRATION OF THESE
22 LAWS; AND

23 (f) CREATING A NEW TITLE 44 CONSISTING OF LAWS ADMINISTERED
24 BY THE DEPARTMENT OF REVENUE THAT REGULATE VARIOUS ACTIVITIES
25 IS NECESSARY TO IMPLEMENT THE RECOMMENDATIONS OF THE TITLE 12
26 RECODIFICATION STUDY AND FACILITATE THE REORGANIZATION OF TITLE
27 12 PERTAINING TO THE REGULATION OF PROFESSIONS AND OCCUPATIONS.

1 (f) Victims of crime and all the people of the state are adversely
2 affected when criminal offenders divert restitution to limited gaming and
3 pari-mutuel wagering.

4 (g) A criminal offender's winnings from money diverted from
5 restitution should be applied to the offender's outstanding criminal court
6 obligations.

7 (h) An uncollected debt to the state should be deducted from a
8 person's winnings.

9 **44-33-103. [Formerly 24-35-603] Definitions.** As used in this part
10 6 ARTICLE 33, unless the context otherwise requires:

11 (1) "Licensee" means a licensee as defined in section 12-60-102
12 (17), ~~C.R.S.~~, or an operator or retail gaming licensee under ~~section~~
13 ~~12-47.1-501 (1)(b) or (1)(c), C.R.S.~~ SECTION 44-30-501 (1)(b) OR (1)(c).

14 (2) (a) "Outstanding debt" means:

15 (I) Unpaid child support debt or child support costs to the state
16 pursuant to section 14-14-104, ~~C.R.S.~~, and arrearages of child support
17 requested as part of an enforcement action pursuant to article 5 of title 14,
18 ~~C.R.S.~~, or arrearages of child support that are the subject of enforcement
19 services provided pursuant to section 26-13-106; ~~C.R.S.~~;

20 (II) Restitution that a person has been ordered to pay pursuant to
21 section 18-1.3-603 or 19-2-918, ~~C.R.S.~~, regardless of the date that the
22 restitution was ordered; and

23 (III) Any unpaid debt due to the state that is referred pursuant to
24 section 24-30-202.4 (2) to the state controller or the central collection
25 services section of the division of finance and procurement, or any
26 successor section, in the department of personnel, and including the
27 collection fee and any allowable fees and costs pursuant to section

1 24-30-202.4 (8). "Outstanding debt" does not include any debt collected
2 by the department of personnel for a political subdivision of the state.

3 (b) Notwithstanding any provision of ~~paragraph (a) of this~~
4 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION, an outstanding debt
5 shall not be less than three hundred dollars.

6 (3) "Payment" means cash winnings from limited gaming or from
7 pari-mutuel wagering on horse or greyhound racing payable by a licensee
8 for which the licensee is required to file form W-2G, or a substantially
9 equivalent form, with the United States internal revenue service.

10 (4) "Registry" means the registry created and maintained by or for
11 the department ~~of revenue~~ pursuant to ~~section 24-35-604~~ SECTION
12 44-33-104.

13 (5) "Registry operator" means the department ~~of revenue~~ or the
14 private entity that maintains the registry under the direction and control
15 of the department.

16 **44-33-104. [Formerly 24-35-604] Registry - creation -**
17 **information.** (1) The department ~~of revenue~~ shall create and maintain,
18 or contract with a private entity pursuant to ~~section 24-35-607~~ SECTION
19 44-33-108 to create and maintain, the registry in accordance with this
20 section.

21 ~~(1.5)~~ (2) On and after the date that the judicial department
22 receives notice from the department ~~of revenue~~ pursuant to ~~section~~
23 ~~24-35-605.5~~ ~~(2)(b)(I)~~ SECTION 44-33-106 (2)(b)(I), the judicial
24 department shall certify to the registry operator the information indicated
25 in ~~subsection (4)~~ SUBSECTION (6) of this section regarding persons with
26 an outstanding debt as specified in ~~section 24-35-603 (2)(a)(II)~~ SECTION
27 44-33-103 (2)(a)(II).

1 ~~(2)~~ (3) The department of human services shall certify to the
2 registry operator the information indicated in ~~subsection (4)~~ SUBSECTION
3 (6) of this section regarding each child support obligor with an
4 outstanding debt as specified in ~~section 24-35-603 (2)(a)(I)~~ SECTION
5 44-33-103 (2)(a)(I).

6 ~~(2.5)~~ (4) On and after January 1, 2012, the department of
7 personnel shall certify to the registry operator the information indicated
8 in ~~subsection (4)~~ SUBSECTION (6) of this section regarding each person
9 with an outstanding debt as specified in ~~section 24-35-603 (2)(a)(II)~~
10 SECTION 44-33-103 (2)(a)(III).

11 ~~(3)~~ (5) The registry operator shall enter in the registry the
12 information certified to the registry operator by the judicial department,
13 the department of human services, and the department of personnel
14 pursuant to ~~subsections (1.5), (2), and (2.5)~~ SUBSECTIONS (2), (3), AND (4)
15 of this section.

16 ~~(4)~~ (6) The registry shall contain the following information:

17 (a) The name of each person with an outstanding debt;

18 (b) The social security number of each person with an outstanding
19 debt;

20 (c) The account or case identifier assigned to the outstanding debt
21 by the department that certified the information to the registry operator;

22 (d) The name, telephone number, and address of the department
23 that certified the information to the registry operator regarding each
24 person with an outstanding debt; and

25 (e) The amount of the outstanding debt.

26 ~~(5)~~ (7) On and after the date that the judicial department receives
27 notice from the department of revenue pursuant to ~~section 24-35-605.5~~

1 ~~(2)(b)(I)~~ SECTION 44-33-106 (2)(b)(I), the registry operator shall add a fee
2 of twenty-five dollars to each outstanding debt certified by a department
3 pursuant to this section.

4 **44-33-105. [Formerly 24-35-605] Payments - limited gaming**
5 **and pari-mutuel wagering licensees - procedures.** (1) On and after
6 July 1, 2008:

7 (a) A licensee shall have the means to communicate with the
8 registry operator.

9 (b) Before making a payment to a winner, the licensee shall obtain
10 the name, address, and social security number of the winner from form
11 W-2G, or a substantially equivalent form, to be filed with the United
12 States internal revenue service and submit the required information to the
13 registry operator. The registry operator shall inform the licensee whether
14 the winner is listed in the registry. The licensee shall comply with
15 subsection (2) of this section.

16 (2) (a) If the registry operator replies that the winner is not listed
17 in the registry or if the licensee is unable to receive information from the
18 registry operator after attempting in good faith to do so, the licensee may
19 make the payment to the winner.

20 (b) If the registry operator replies that the winner is listed in the
21 registry:

22 (I) The reply from the registry operator to the licensee shall
23 indicate the name, telephone number, and address of the department that
24 certified the information to the registry and the amount of the winner's
25 outstanding debt.

26 (II) The licensee shall withhold from the amount of the payment
27 an amount equal to the amount certified pursuant to ~~section 24-35-604~~

1 SECTION 44-33-104. If the amount of the payment is less than or equal to
2 the amount certified, the licensee shall withhold the entire amount of the
3 payment. The licensee shall refer the winner to the department that
4 reported the outstanding debt to the registry.

5 (III) Within twenty-four hours after withholding a payment
6 pursuant to ~~subparagraph (II) of this paragraph (b)~~ SUBSECTION (2)(b)(II)
7 OF THIS SECTION, the licensee shall send the amount withheld to the
8 registry operator and report to the registry operator the full name, address,
9 and social security number of the winner, the account or case identifier
10 assigned by the department that reported the outstanding debt to the
11 registry, the date and amount of the payment, and the name and location
12 of the licensee.

13 (IV) The registry operator shall send to the certifying department
14 the ~~moneys~~ MONEY and information received from a licensee pursuant to
15 ~~subparagraph (III) of this paragraph (b)~~ SUBSECTION (2)(b)(III) OF THIS
16 SECTION. If more than one department certified a winner, the registry
17 operator shall send the information to each certifying department and
18 distribute the ~~moneys~~ MONEY among the departments as follows:

19 (A) The registry operator shall send to the department of human
20 services any amount certified by the department of human services.

21 (B) Of any ~~moneys~~ MONEY remaining after the distribution, if any,
22 to the department of human services pursuant to ~~sub-subparagraph (A) of~~
23 ~~this subparagraph (IV)~~ SUBSECTION (2)(b)(IV)(A) OF THIS SECTION, the
24 registry operator shall send to the judicial department any amount
25 certified by the judicial department.

26 (C) Of any ~~moneys~~ MONEY remaining after the distribution, if any,
27 to the judicial department pursuant to ~~sub-subparagraph (B) of this~~

1 ~~subparagraph (IV)~~ SUBSECTION (2)(b)(IV)(B) OF THIS SECTION, the
2 registry operator shall send to the department of personnel any amount
3 certified by the department of personnel.

4 (V) The department of human services shall process ~~moneys~~
5 MONEY received from the registry operator pursuant to ~~subparagraph (IV)~~
6 ~~of this paragraph (b)~~ SUBSECTION (2)(b)(IV) OF THIS SECTION in
7 accordance with section 26-13-118.7. ~~C.R.S.~~ The judicial department
8 shall process ~~moneys~~ MONEY received from the registry operator pursuant
9 to ~~subparagraph (IV) of this paragraph (b)~~ SUBSECTION (2)(b)(IV) OF THIS
10 SECTION in accordance with the rules of the department. The department
11 of personnel shall process ~~moneys~~ MONEY received from the registry
12 operator pursuant to ~~subparagraph (IV) of this paragraph (b)~~ SUBSECTION
13 (2)(b)(IV) OF THIS SECTION in accordance with the rules of the department
14 of personnel, with the understanding that any state agency or
15 state-supported institution of higher education debt will be paid before
16 any debt for a political subdivision of the state assigned to central
17 collection services.

18 (3) The registry operator shall deduct an amount equal to the fee
19 added to the outstanding debt pursuant to ~~section 24-35-604 (5)~~ SECTION
20 44-33-104 (7) from each payment received from a licensee and forward
21 ~~such~~ THE amount to the state treasurer for deposit in the gambling
22 payment intercept cash fund created in ~~section 24-35-605.5~~ SECTION
23 44-33-106.

24 **44-33-106. [Formerly 24-35-605.5] Gambling payment**
25 **intercept cash fund - creation - gifts, grants, donations - intercepts for**
26 **restitution.** (1) There is hereby created in the state treasury the gambling
27 payment intercept cash fund, referred to in this section as the "fund". The

1 fund shall consist of any ~~moneys~~ MONEY deposited in the fund pursuant
2 to ~~section 24-35-605 (3)~~ SECTION 44-33-105 (3), any allocations made to
3 the fund pursuant to section 24-33.5-506 (1)(c.5)(I), any other ~~moneys~~
4 MONEY appropriated to the fund by the general assembly, and any gifts,
5 grants, or donations from private or public sources, ~~which~~ THAT the
6 department of ~~revenue~~ is hereby authorized to seek and accept for the
7 purposes set forth in this section. All private and public funds received
8 through gifts, grants, or donations shall be transmitted to the state
9 treasurer, who shall credit the same to the fund. The state treasurer shall
10 also credit to the fund any ~~moneys~~ MONEY that ~~are~~ IS allocated thereto
11 pursuant to section 24-33.5-506 (1)(c.5)(I).

12 (2) (a) The ~~moneys~~ MONEY in the fund shall be continuously
13 appropriated to the department of ~~revenue~~ for the purpose of expanding
14 the program established by this ~~part 6~~ ARTICLE 33 to include intercepts of
15 restitution that a person has been ordered to pay pursuant to section
16 18-1.3-603 or 19-2-918, ~~C.R.S.~~, as certified by the judicial department.
17 As soon as there ~~are~~ IS sufficient ~~moneys~~ MONEY in the fund, the
18 department of ~~revenue~~ shall expand the program for ~~such~~ THAT purpose.

19 (b) Once the intercept program has been expanded as described
20 in ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS
21 SECTION:

22 (I) The department of ~~revenue~~ shall notify the judicial department
23 and the registry operator that the judicial department may begin certifying
24 outstanding debt pursuant to ~~section 24-35-604 (1.5)~~ SECTION 44-33-104
25 (2); and

26 (II) ~~Moneys~~ MONEY in the fund shall be subject to annual
27 appropriation by the general assembly for the direct and indirect costs

1 associated with the administration of this ~~part 6~~ ARTICLE 33.

2 (c) Any ~~moneys~~ MONEY in the fund not expended for the purposes
3 set forth in ~~paragraphs (a) and (b) of this subsection (2)~~ SUBSECTIONS
4 (2)(a) AND (2)(b) OF THIS SECTION may be invested by the state treasurer
5 as provided by law. All interest and income derived from the investment
6 and deposit of ~~moneys~~ MONEY in the fund shall be credited to the fund.
7 Any unexpended and unencumbered ~~moneys~~ MONEY remaining in the
8 fund at the end of a fiscal year shall remain in the fund and shall not be
9 credited or transferred or revert to the general fund or any other fund.

10 **44-33-107. [Formerly 24-35-606] Liability - immunity.** (1) A
11 licensee that fails to comply with the provisions of ~~section 24-35-605~~
12 SECTION 44-33-105 shall be subject to sanctions by its licensing authority
13 pursuant to ~~sections 12-47.1-525 (1) and 12-60-507 (1), C.R.S.~~ SECTIONS
14 44-30-524 (1) AND 12-60-507 (1).

15 (2) A licensee that makes a payment to a winner in violation of
16 ~~section 24-35-605~~ SECTION 44-33-105 shall not be liable to the person to
17 whom the winner owes an outstanding debt.

18 (3) Except as provided in THIS section, ~~24-35-606~~, a licensee shall
19 be immune from civil and criminal liability for acting in compliance with
20 the provisions of this ~~part 6~~ ARTICLE 33.

21 **44-33-108. [Formerly 24-35-607] Contracting authority -**
22 **memoranda of understanding - rules.** (1) The executive director ~~of the~~
23 ~~department of revenue~~ may enter into a contract with a private entity, in
24 accordance with the "Procurement Code", articles 101 to 112 of ~~this title~~
25 TITLE 24, to create and maintain the registry.

26 (2) The department ~~of revenue~~ may enter into memoranda of
27 understanding with the judicial department, the department of human

1 services, and the department of personnel to implement this ~~part 6~~
2 ARTICLE 33. If the registry is operated by a private entity pursuant to this
3 section, the registry operator may enter into memoranda of understanding
4 with the judicial department, the department of human services, and the
5 department of personnel to implement this ~~part 6~~ ARTICLE 33.

6 (3) The executive director of the ~~department of revenue~~ shall
7 promulgate rules in accordance with article 4 of ~~this title~~ TITLE 24 to
8 implement this ~~part 6~~ ARTICLE 33. The rules shall include, but need not be
9 limited to, rules regarding:

10 (a) The removal from the registry of information regarding
11 persons who satisfy their outstanding debts;

12 (b) The manner in which a licensee shall communicate with the
13 registry, including the information a licensee shall submit to the registry
14 and the procedures to be followed if the registry is inaccessible due to
15 technical or other problems;

16 (c) The protection of the confidentiality of information in the
17 registry; and

18 (d) The circumstances and means by which an outstanding debt
19 may be collected from a licensee pursuant to ~~section 24-35-605(2)(b)(IV)~~
20 SECTION 44-33-105 (2)(b)(IV).

21 (4) The executive director of the ~~department of revenue~~ shall
22 promulgate a rule in accordance with article 4 of ~~this title~~ TITLE 24
23 allowing a licensee to retain at least thirty dollars of each payment
24 withheld pursuant to this ~~part 6~~ ARTICLE 33 to cover the licensee's costs
25 of compliance with this ~~part 6~~ ARTICLE 33, which amount shall be added
26 to the debtor's outstanding debt.

27 **SECTION 3. Repeal of relocated provisions in this act.** In

1 Colorado Revised Statutes, **repeal** part 6 of article 35 of title 24.

2 **SECTION 4.** In Colorado Revised Statutes, 12-14-103, **amend**
3 the introductory portion and (2)(b)(IX) as follows:

4 **12-14-103. Definitions.** As used in this ~~article~~ ARTICLE 14, unless
5 the context otherwise requires:

6 (2) (b) "Collection agency" does not include:

7 (IX) A limited gaming or racing licensee acting pursuant to ~~part~~
8 ~~6 of article 35 of title 24, C.R.S.~~ ARTICLE 33 OF TITLE 44.

9 **SECTION 5.** In Colorado Revised Statutes, 12-60-507, **amend**
10 (1) introductory portion and (1)(w)(I) as follows:

11 **12-60-507. Investigation - denial, suspension, and revocation**
12 **actions against licensees - unlawful acts.** (1) The commission upon its
13 own motion may, and upon complaint in writing of any person shall,
14 investigate the activities of any licensee or applicant within the state or
15 any person upon the premises of any facility licensed pursuant to this
16 ~~article~~ ARTICLE 60. In addition to its authority under any other provision
17 of this ~~article~~ ARTICLE 60, the commission may issue a letter of
18 admonition to a licensee, fine a licensee, suspend a license, deny an
19 application for a license, or revoke a license, if ~~such~~ THE person has
20 committed any of the following violations:

21 (w) (I) Failing to comply with the requirements of ~~part 6 of article~~
22 ~~35 of title 24, C.R.S.,~~ ARTICLE 33 OF TITLE 44 or any rule promulgated by
23 the executive director of the department of revenue pursuant to ~~section~~
24 ~~24-35-607 (3), C.R.S.~~ SECTION 44-33-108 (3).

25 **SECTION 6.** In Colorado Revised Statutes, 12-60-513, **amend**
26 (1) as follows:

27 **12-60-513. Payments of winnings - intercept.** (1) Before

1 making a payment of cash winnings from pari-mutuel wagering on horse
2 or greyhound racing for which the licensee is required to file form W-2G,
3 or a substantially equivalent form, with the United States internal revenue
4 service, the licensee shall comply with the requirements of ~~part 6 of~~
5 ~~article 35 of title 24, C.R.S.~~ ARTICLE 33 OF TITLE 44.

6 **SECTION 7.** In Colorado Revised Statutes, 26-13-118.7, **amend**
7 (1), (2), and (3) as follows:

8 **26-13-118.7. Gambling winnings - interception - rules.**

9 (1) Pursuant to ~~section 24-35-604 (2), C.R.S.~~ SECTION 44-33-104 (3), the
10 state department shall periodically certify to the registry operator
11 information regarding persons who owe a child support debt or child
12 support costs to the state pursuant to section 14-14-104, ~~C.R.S.~~, or who
13 owe child support arrearages requested as part of an enforcement action
14 pursuant to article 5 of title 14, ~~C.R.S.~~, or who owe child support
15 arrearages or child support costs that are the subject of enforcement
16 services provided pursuant to section 26-13-106. The information shall
17 include the social security number of the person owing the child support
18 debt, arrearages, or child support costs, the amount owed, and the other
19 information required by the registry operator pursuant to ~~section~~
20 ~~24-35-604 (4), C.R.S.~~ SECTION 44-33-104 (6).

21 (2) Upon receipt from the registry operator of a payment and
22 accompanying information pursuant to ~~section 24-35-605 (2)(b), C.R.S.~~
23 SECTION 44-33-105 (2)(b), the state department shall notify the obligated
24 parent in writing that the state intends to offset the parent's child support
25 debt, child support arrearages, or child support costs against the parent's
26 winnings from limited gaming or from pari-mutuel wagering on horse or
27 greyhound racing. The notice shall include information on the parent's

1 right to object to the offset and to request an administrative review
2 pursuant to the rules of the state board.

3 (3) Upon receipt of a payment from the registry operator pursuant
4 to ~~section 24-35-605 (2)(b), C.R.S.~~ SECTION 44-33-105 (2)(b), the state
5 department shall deposit the payment with the family support registry
6 created pursuant to section 26-13-114. After the final disposition of any
7 administrative review requested pursuant to subsection (2) of this section,
8 the state department shall disburse the payment for processing or for
9 distribution to the individual receiving support enforcement services
10 pursuant to section 26-13-106, as appropriate.

11 **SECTION 8. Act subject to petition - effective date.** This act
12 takes effect October 1, 2018; except that, if a referendum petition is filed
13 pursuant to section 1 (3) of article V of the state constitution against this
14 act or an item, section, or part of this act within the ninety-day period
15 after final adjournment of the general assembly, then the act, item,
16 section, or part will not take effect unless approved by the people at the
17 general election to be held in November 2018 and, in such case, will take
18 effect on the date of the official declaration of the vote thereon by the
19 governor.