

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0494.01 Richard Sweetman x4333

HOUSE BILL 18-1057

HOUSE SPONSORSHIP

McKean,

SENATE SPONSORSHIP

Coram,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE COLLECTION OF DEBTS, AND, IN CONNECTION
102 THEREWITH, REQUIRING THAT CERTAIN INFORMATION ABOUT
103 JUDGMENT DEBTORS BE DISCLOSED TO JUDGMENT CREDITORS
104 THAT OBTAIN A COURT ORDER FOR SUCH DISCLOSURE AND
105 ALLOWING COLLECTION AGENTS TO ADD CERTAIN EXPENSES TO
106 AMOUNTS DUE FOR COLLECTION.

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 allows a judgment creditor to file a petition in court to

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 CREDITOR HOLDING A MONEY JUDGMENT AGAINST A JUDGMENT DEBTOR
2 ONLY THE NAME AND ADDRESS OF THE JUDGMENT DEBTOR'S CURRENT
3 EMPLOYER, OR EMPLOYERS, IF MORE THAN ONE, AS CONTAINED IN THE
4 DEPARTMENT'S WAGE AND EMPLOYMENT INFORMATION DATABASE, ONLY
5 IF:

6 (a) THE JUDGMENT CREDITOR HAS OBTAINED A MONEY JUDGMENT
7 AGAINST THE JUDGMENT DEBTOR FROM A COURT OF COMPETENT
8 JURISDICTION;

9 (b) THE JUDGMENT DEBTOR IS AN INDIVIDUAL; AND

10 (c) THE JUDGEMENT CREDITOR OBTAINS A COURT ORDER
11 REQUIRING THE DISCLOSURE OF INFORMATION IN ACCORDANCE WITH
12 SUBSECTION (2) OF THIS SECTION.

13 (2) A COURT THAT ENTERS A MONEY JUDGMENT AGAINST AN
14 INDIVIDUAL SHALL, REGARDLESS OF WHETHER THE JUDGMENT CREDITOR
15 HAS EXHAUSTED OTHER REMEDIES, GRANT AN ORDER REQUIRING THE
16 DEPARTMENT TO DISCLOSE THE NAME AND ADDRESS OF THE INDIVIDUAL'S
17 CURRENT EMPLOYER OR EMPLOYERS IF BOTH OF THE FOLLOWING
18 CONDITIONS ARE MET:

19 (a) THE JUDGMENT CREDITOR FILES A MOTION WITH THE COURT
20 AND, IF SO REQUIRED BY THE COLORADO RULES OF CIVIL PROCEDURE,
21 SERVES A COPY OF THE MOTION ON THE INDIVIDUAL JUDGMENT DEBTOR.
22 THE INDIVIDUAL JUDGMENT DEBTOR MAY OPPOSE THE MOTION ON
23 GROUNDS THAT THE JUDGMENT IS VOID OR EXPIRED.

24 (b) IF THE INDIVIDUAL JUDGMENT DEBTOR OPPOSES THE MOTION,
25 THE COURT SHALL HOLD A HEARING WITHIN FOURTEEN DAYS AFTER THE
26 TIMELY FILING WITH THE COURT AND SERVICE OF THE OBJECTION UPON
27 THE JUDGMENT CREDITOR, AND THE COURT SHALL RULE ON THE

1 OBJECTION.

2 (3) WHEN A COURT ORDER IS GRANTED UNDER SUBSECTION (2) OF
3 THIS SECTION, THE JUDGMENT CREDITOR SHALL:

4 (a) PROVIDE TO THE DEPARTMENT A COPY OF THE COURT ORDER
5 REQUIRING DISCLOSURE;

6 (b) EXECUTE A USER AGREEMENT AND DISCLOSURE CONTRACT
7 WITH THE DEPARTMENT AND PAY THE APPLICABLE FEE ASSOCIATED WITH
8 THE USER AGREEMENT AND DISCLOSURE CONTRACT;

9 (c) PAY THE DEPARTMENT A REASONABLE FEE THAT REFLECTS THE
10 ACTUAL COST OF PROCESSING THE REQUEST AS DETERMINED IN RULES
11 ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103; AND

12 (d) COMPLY WITH THE DATA SAFEGUARD AND SECURITY
13 MEASURES DESCRIBED IN 20 CFR 603.9 WITH RESPECT TO INFORMATION
14 RECEIVED FROM THE DEPARTMENT UNDER THIS SECTION.

15 (4) (a) THE DEPARTMENT MAY CHARGE THE JUDGMENT CREDITOR
16 A ONE-TIME INITIATION FEE ATTRIBUTED TO THE EXECUTION OF THE
17 REQUIRED USER AGREEMENT AND DISCLOSURE CONTRACT AS DETERMINED
18 IN RULES ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103. THE
19 INITIATION FEE MAY NOT EXCEED FIVE HUNDRED DOLLARS.

20 (b) THE DEPARTMENT MAY CHARGE THE JUDGMENT CREDITOR AN
21 ANNUAL RENEWAL FEE ATTRIBUTED TO THE EXECUTION OF THE REQUIRED
22 USER AGREEMENT AND DISCLOSURE CONTRACT AS DETERMINED IN RULES
23 ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103. THE ANNUAL
24 RENEWAL FEE MAY NOT EXCEED ONE HUNDRED DOLLARS.

25 (5) THE FEE PAID UNDER SUBSECTION (3)(c) OF THIS SECTION MAY
26 BE RECOVERED BY THE JUDGMENT CREDITOR AS A TAXABLE LITIGATION
27 COST.

1 (6) THE DEPARTMENT SHALL TRANSFER ALL FEES COLLECTED
2 UNDER THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE
3 MONEY TO THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN
4 SECTION 24-1-121 (1.7).

5 (7) IF A JUDGMENT CREDITOR COMPLIES WITH SUBSECTION (3) OF
6 THIS SECTION, THE DEPARTMENT SHALL PROVIDE TO THE JUDGMENT
7 CREDITOR THE NAME AND ADDRESS OF THE INDIVIDUAL JUDGMENT
8 DEBTOR'S CURRENT EMPLOYER OR EMPLOYERS WITHIN SEVEN BUSINESS
9 DAYS AFTER RECEIVING THE COURT ORDER.

10 (8) A JUDGMENT CREDITOR MAY NOT:

11 (a) USE THE INFORMATION OBTAINED UNDER THIS SECTION FOR A
12 PURPOSE OTHER THAN SATISFYING THE JUDGMENT BETWEEN THE
13 JUDGMENT CREDITOR AND THE INDIVIDUAL JUDGMENT DEBTOR; OR

14 (b) SHARE THE INFORMATION WITH ANY OTHER PERSON EXCEPT AS
15 PERMITTED BY 20 CFR 603.9 (c).

16 (9) (a) THE DEPARTMENT, WITH JUST CAUSE AND AT ITS OWN
17 EXPENSE, MAY AUDIT A JUDGMENT CREDITOR WHO RECEIVES
18 INFORMATION UNDER THIS SECTION FOR COMPLIANCE WITH THE DATA
19 SAFEGUARD AND SECURITY MEASURES OF 20 CFR 603.9.

20 (b) THE DEPARTMENT MAY PAY THE COSTS ASSOCIATED WITH
21 CONDUCTING AN AUDIT UNDER THIS SUBSECTION (9) ONLY WITH FUNDS
22 FROM THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN SECTION
23 24-1-121 (1.7).

24 (10) (a) (I) IF A JUDGMENT CREDITOR FAILS TO COMPLY WITH THE
25 DATA SAFEGUARD AND SECURITY MEASURES DESCRIBED IN 20 CFR 603.9,
26 THE JUDGMENT CREDITOR, AFTER A COURT FINDING OF WILLFUL
27 NONCOMPLIANCE, IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE

1 THOUSAND DOLLARS FOR EACH VIOLATION.

2 (II) THE ATTORNEY GENERAL, ON THE ATTORNEY GENERAL'S
3 BEHALF OR ON BEHALF OF THE DEPARTMENT, MAY FILE AN ACTION IN
4 DISTRICT COURT TO SEEK AND ENFORCE THE CIVIL PENALTY.

5 (III) THE PREVAILING PARTY IS ENTITLED TO AN AWARD OF ITS
6 REASONABLE ATTORNEY FEES, COURT COSTS, AND INVESTIGATIVE
7 EXPENSES.

8 (b) IF THE JUDGMENT CREDITOR IS FOUND TO BE THE PREVAILING
9 PARTY, ALL ATTORNEY FEES, COURT COSTS, AND INVESTIGATIVE EXPENSES
10 REQUIRED TO BE PAID TO THE JUDGMENT CREDITOR MUST BE PAID OUT OF
11 THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN SECTION 24-1-121
12 (1.7).

13 (11) A COLLECTION AGENCY OR PRIVATELY RETAINED ATTORNEY
14 COLLECTING ON ANY DEBT ARISING FROM PAST-DUE ORDERS,
15 OBLIGATIONS, FINES, OR FEES DUE TO THE STATE, OR TO ANY POLITICAL
16 SUBDIVISION WITHIN THE STATE, MAY ADD TO THE AMOUNT DUE THAT HAS
17 BEEN PLACED FOR COLLECTION ALL FEES, COSTS, AND COSTS OF
18 COLLECTION, INCLUDING DESIGNATED CONTRACTUAL COSTS AND
19 ATTORNEY FEES, REGARDLESS OF WHETHER THE DEBT HAS BEEN REDUCED
20 TO JUDGMENT. EXCLUSIVE OF THE ACCRUAL OF INTEREST AND COURT
21 COSTS, ANY FEES OR COSTS MAY NOT EXCEED THE PERCENTAGE
22 ESTABLISHED PURSUANT TO SECTION 24-30-202.4(8) UNLESS ADDITIONAL
23 REASONABLE ATTORNEY FEES ARE AWARDED BY A COURT OF COMPETENT
24 JURISDICTION.

25 **13-51.3-103. Disposition of civil penalties, attorney fees, court**
26 **costs, and investigative expenses recovered.** THE DEPARTMENT SHALL
27 TRANSMIT ALL CIVIL PENALTIES, ATTORNEY FEES, COURT COSTS, AND

1 INVESTIGATIVE EXPENSES COLLECTED UNDER SECTION 13-51.3-102 TO THE
2 STATE TREASURER, WHO SHALL CREDIT THEM TO THE GENERAL FUND.

3 **SECTION 3.** In Colorado Revised Statutes, 24-1-121, **add** (1.7)
4 as follows:

5 **24-1-121. Department of labor and employment - creation -**
6 **judgment debtor disclosure fund.** (1.7) THERE IS HEREBY CREATED IN
7 THE STATE TREASURY THE JUDGMENT DEBTOR DISCLOSURE FUND. THE
8 FUND CONSISTS OF MONEY FROM FEES COLLECTED UNDER SECTION
9 13-51.3-102 FOR REQUESTS FOR DISCLOSURE OF CURRENT EMPLOYER
10 INFORMATION ON INDIVIDUAL JUDGMENT DEBTORS. THE MONEY IN THE
11 FUND IS SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY
12 FOR THE DIRECT AND INDIRECT COSTS INCURRED BY THE DEPARTMENT OF
13 LABOR AND EMPLOYMENT IN PROCESSING REQUESTS FOR DISCLOSURE OF
14 CURRENT EMPLOYER INFORMATION ON JUDGMENT DEBTORS UNDER
15 SECTION 13-51.3-102 AND PAYMENT TO JUDGMENT CREDITORS UNDER
16 SECTION 13-51.3-102 (10)(b). THE STATE TREASURER SHALL CREDIT ALL
17 INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
18 FUND TO THE FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED
19 AND UNENCUMBERED MONEY IN THE FUND REMAINS IN THE FUND AND IS
20 NOT TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

21 **SECTION 4. Act subject to petition - effective date.** This act
22 takes effect January 1, 2019; except that, if a referendum petition is filed
23 pursuant to section 1 (3) of article V of the state constitution against this
24 act or an item, section, or part of this act within the ninety-day period
25 after final adjournment of the general assembly, then the act, item,
26 section, or part will not take effect unless approved by the people at the
27 general election to be held in November 2018 and, in such case, will take

- 1 effect on January 1, 2019, or on the date of the official declaration of the
- 2 vote thereon by the governor, whichever is later.