

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 18-0494.01 Richard Sweetman x4333

HOUSE BILL 18-1057

HOUSE SPONSORSHIP

McKean,

SENATE SPONSORSHIP

Coram,

House Committees

Judiciary
Finance
Appropriations

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

13 (2) (a) REGARDLESS OF WHETHER A JUDGMENT CREDITOR HAS
14 EXHAUSTED OTHER REMEDIES, A JUDGMENT CREDITOR MAY REQUEST THAT
15 THE COURT ORDER THE DEPARTMENT TO DISCLOSE TO THE JUDGMENT
16 CREDITOR THE NAME AND ADDRESS OF AN INDIVIDUAL'S CURRENT
17 EMPLOYER OR EMPLOYERS IF:

18 (I) A COURT HAS ENTERED A MONEY JUDGMENT AGAINST THE
19 INDIVIDUAL;

20 (II) THE JUDGMENT CREDITOR FILES A MOTION WITH THE COURT
21 FOR SUCH DISCLOSURE; AND

22 (III) IF SO REQUIRED BY THE COLORADO RULES OF CIVIL
23 PROCEDURE, THE JUDGMENT CREDITOR SERVES A COPY OF THE MOTION ON
24 THE INDIVIDUAL JUDGMENT DEBTOR.

25 (b) AN INDIVIDUAL JUDGMENT DEBTOR MAY OPPOSE A JUDGMENT
26 CREDITOR'S MOTION TO OBTAIN A DISCLOSURE PURSUANT TO SUBSECTION
27 (2)(a) OF THIS SECTION ON THE GROUNDS THAT THE JUDGMENT IS VOID OR

1 EXPIRED. IF AN INDIVIDUAL JUDGMENT DEBTOR SO OPPOSES SUCH A
2 MOTION, THE COURT, AT ITS DISCRETION, MAY HOLD A HEARING AFTER THE
3 TIMELY FILING OF THE OBJECTION WITH THE COURT AND THE SERVICE OF
4 THE OBJECTION UPON THE JUDGMENT CREDITOR.

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

7 (a) PROVIDE TO THE DEPARTMENT A COPY OF THE COURT ORDER
8 REQUIRING DISCLOSURE;

9 (b) EXECUTE A USER AGREEMENT AND DISCLOSURE CONTRACT
10 WITH THE DEPARTMENT AND PAY THE APPLICABLE FEE ASSOCIATED WITH
11 THE USER AGREEMENT AND DISCLOSURE CONTRACT;

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

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

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

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

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

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

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

13 (8) A JUDGMENT CREDITOR MAY NOT:

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

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

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

23 (b) THE DEPARTMENT MAY PAY THE COSTS ASSOCIATED WITH
24 CONDUCTING AN AUDIT UNDER THIS SUBSECTION (9) ONLY WITH FUNDS
25 FROM THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN SECTION
26 24-1-121 (1.7).

27 (10) (a) (I) IF A JUDGMENT CREDITOR FAILS TO COMPLY WITH THE

1 DATA SAFEGUARD AND SECURITY MEASURES DESCRIBED IN 20 CFR 603.9,
2 THE JUDGMENT CREDITOR, AFTER A COURT FINDING OF WILLFUL
3 NONCOMPLIANCE, IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE
4 THOUSAND DOLLARS FOR EACH VIOLATION.

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

8 (III) THE PREVAILING PARTY IS ENTITLED TO AN AWARD OF ITS
9 REASONABLE ATTORNEY FEES, COURT COSTS, AND INVESTIGATIVE
10 EXPENSES.

11 (b) IF THE JUDGMENT CREDITOR IS FOUND TO BE THE PREVAILING
12 PARTY, ALL ATTORNEY FEES, COURT COSTS, AND INVESTIGATIVE EXPENSES
13 REQUIRED TO BE PAID TO THE JUDGMENT CREDITOR MUST BE PAID OUT OF
14 THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN SECTION 24-1-121
15 (1.7).

16 (11) A COLLECTION AGENCY OR PRIVATELY RETAINED ATTORNEY
17 COLLECTING ON ANY DEBT ARISING FROM PAST-DUE ORDERS,
18 OBLIGATIONS, FINES, OR FEES DUE TO THE STATE, OR DUE TO ANY
19 POLITICAL SUBDIVISION WITHIN THE STATE, MAY ADD TO THE AMOUNT DUE
20 THAT HAS BEEN PLACED FOR COLLECTION ALL FEES, COSTS, AND COSTS OF
21 COLLECTION, INCLUDING DESIGNATED CONTRACTUAL COSTS AND
22 ATTORNEY FEES. EXCLUSIVE OF THE ACCRUAL OF INTEREST AND COURT
23 COSTS, ANY FEES OR COSTS MAY NOT EXCEED THE PERCENTAGE PUBLISHED
24 ANNUALLY BY THE CENTRAL COLLECTION SERVICES SECTION OF THE
25 DIVISION OF FINANCE AND PROCUREMENT WITHIN THE DEPARTMENT OF
26 PERSONNEL UNLESS ADDITIONAL REASONABLE ATTORNEY FEES ARE
27 AWARDED BY A COURT OF COMPETENT JURISDICTION.

1 **13-51.3-103. Disposition of civil penalties, attorney fees, court**
2 **costs, and investigative expenses recovered.** THE DEPARTMENT SHALL
3 TRANSMIT ALL CIVIL PENALTIES, ATTORNEY FEES, COURT COSTS, AND
4 INVESTIGATIVE EXPENSES COLLECTED UNDER SECTION 13-51.3-102 TO THE
5 STATE TREASURER, WHO SHALL CREDIT THEM TO THE GENERAL FUND.

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

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

24 **SECTION 4. Act subject to petition - effective date.** This act
25 takes effect January 1, 2019; except that, if a referendum petition is filed
26 pursuant to section 1 (3) of article V of the state constitution against this
27 act or an item, section, or part of this act within the ninety-day period

1 after final adjournment of the general assembly, then the act, item,
2 section, or part will not take effect unless approved by the people at the
3 general election to be held in November 2018 and, in such case, will take
4 effect on January 1, 2019, or on the date of the official declaration of the
5 vote thereon by the governor, whichever is later.