

CHAPTER 350

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 00-145

BY SENATORS Reeves and Weddig;
also REPRESENTATIVES Kaufman, S. Williams, and T. Williams.

AN ACT

CONCERNING SUPPORT OBLIGATIONS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 14-10-122 (1.5) (b) (II), Colorado Revised Statutes, is amended to read:

14-10-122. Modification and termination of provisions for maintenance, support, and property disposition - automatic lien. (1.5) (b) **Lien on real property.** (II) The lien on real property created by this section shall remain in effect ~~twelve years~~ FOR THE LIFE OF THE JUDGMENT or until all past-due amounts are paid, including any accrued interest and costs, without the necessity of renewal. Within twenty calendar days after satisfaction of the debt or debts described in the notice of lien, the delegate child support enforcement unit shall record a release of lien with the clerk and recorder of the county where the notice of lien was recorded. A release of lien shall be conclusive evidence that the lien is extinguished.

SECTION 2. 14-14-111.5 (2) (a) (II) (E), (4), (8) (b), (10) (c), and (18), Colorado Revised Statutes, are amended, and the said 14-14-111.5 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

14-14-111.5. Income assignments for child support or maintenance. (2) **Notice requirements for income assignments.** Notice of income assignments shall be given in accordance with the following provisions based upon the date on which the order sought to be enforced was entered:

(a) **Orders entered before July 10, 1987.** (II) The notice of pending income assignment shall include the following information:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(E) That the obligor shall notify ~~the court or~~ the family support registry, if payments are required to be made through the registry, in writing, of any change of address or employment within ten days after the change.

(4) **Notice to withhold income for support.** Ten days after the date the advance notice of activation is mailed to the obligor for income assignments on orders entered during the time periods described in paragraphs (a), (b), and (d) of subsection (2) of this section or immediately for income assignments on orders entered during the time periods described in paragraphs (c), (e), and (f) of subsection (2) of this section, an income assignment may be activated by the obligee by causing ~~a notice of income assignment~~ A NOTICE TO WITHHOLD INCOME FOR SUPPORT to be served upon the employer, trustee, or other payor of funds, by first class mail, or, in a case where the department of human services is the trustee for purposes of an unemployment benefit intercept pursuant to section 8-73-102 (5), C.R.S., by electronic service. Receipt of notice by the employer, trustee, or other payor of funds confers jurisdiction of the court over the employer, trustee, or other payor of funds. In circumstances in which the source of income to the obligor is unemployment compensation benefits and the custodian of the child is receiving support enforcement services pursuant to section 26-13-106, C.R.S., ~~no notice of income assignment~~ NOTICE TO WITHHOLD INCOME FOR SUPPORT shall be required. In such cases, the state child support enforcement agency shall electronically intercept the unemployment compensation benefits through an automated interface with the department of labor and employment. In all other cases, the ~~notice of income assignment~~ NOTICE TO WITHHOLD INCOME FOR SUPPORT shall contain THE FOLLOWING INFORMATION AND, EXCEPT IN CASES IN WHICH THE OBLIGEE IS RECEIVING CHILD SUPPORT ENFORCEMENT SERVICES PURSUANT TO SECTION 26-13-106, C.R.S., SHALL HAVE A CERTIFIED COPY OF THE SUPPORT ORDER ATTACHED THERETO:

(a) The name ~~address~~, and social security number of the obligor;

(b) A statement that ~~the income assignment is to take effect~~ WITHHOLDING MUST BEGIN no later than the first pay period that begins at least fourteen WORKING days after the ~~mailing date on the notice of income assignment~~ DATE ON THE NOTICE TO WITHHOLD INCOME FOR SUPPORT;

(c) Instructions concerning withholding the deductions, including:

(I) The amount to be withheld for current support and CURRENT MAINTENANCE WHEN INCLUDED IN THE CHILD SUPPORT ORDER, the amount to be withheld for ~~arrears~~ PAST DUE SUPPORT, THE AMOUNT TO BE WITHHELD FOR PAST DUE MAINTENANCE WHEN INCLUDED IN THE CHILD SUPPORT ORDER, THE AMOUNT TO BE WITHHELD FOR CHILD SUPPORT DEBT, THE AMOUNT TO BE WITHHELD FOR MEDICAL SUPPORT, THE AMOUNT TO BE WITHHELD FOR CURRENT MAINTENANCE, THE AMOUNT TO BE WITHHELD FOR PAST DUE MAINTENANCE per month, and THE AMOUNT TO BE WITHHELD FOR PROCESSING FEES, IF ANY. In the event that the pay periods of the employer are more frequent, ~~that~~ the employer shall withhold per pay period an appropriate percentage of the monthly amount due so that the total withheld during the month will total the monthly amount due.

(II) A STATEMENT that the employer, trustee, or other payor of funds may ~~extract~~

~~a processing fee of up to five dollars per month from the remainder of the obligor's income after the deductions and withholding~~ DEDUCT A FEE TO DEFRAY THE COST OF WITHHOLDING AND THAT SUCH EMPLOYER, TRUSTEE, OR OTHER PAYOR OF FUNDS SHALL REFER TO THE LAWS GOVERNING THE WORK STATE OF THE EMPLOYEE FOR THE ALLOWABLE AMOUNT OF SUCH FEE;

(III) That, if section 13-54-104 (3), C.R.S., applies, the employer, trustee, or other payor of funds may not withhold more than the limitations set by said section; ~~and the types of support to be withheld shall have the following priority: Current monthly child support and maintenance when included in the child support order; medical support; child support debt and arrears, including medical support arrears; orders for maintenance only; and processing fees, if any;~~

(d) Instructions about disbursing the withheld amounts, including the requirements that each disbursement:

(I) Shall be forwarded within seven ~~business~~ WORKING days after the date of each deduction and withholding would have been paid or credited to the employee;

(II) Shall be forwarded to the address indicated on the notice;

(III) Shall be identified by the case number, the name and social security number of each obligor, the date the deduction was made, ~~and~~ the amount of the payment, and the family support registry account number for cases ordered to be paid through the family support registry; and

(IV) May be combined with other disbursements in a single payment ~~to a single court or~~ to the family support registry, if required to be sent to the registry, if the individual amount of each disbursement is identified as required by subparagraph (III) of this paragraph (d);

(e) A statement specifying whether or not the obligor is required to provide health insurance for the children who are the subject of the order;

(f) ~~Instructions that the first disbursement shall contain an indication of whether dependent health insurance coverage is available to the obligor and whether the obligor has elected to enroll the dependents who are the subject of the order in such coverage and that such information shall be included in a disbursement at least annually thereafter or at the next disbursement in the event of any change in the status of health insurance availability or coverage;~~

(g) ~~A statement that compliance with the income assignment shall not subject the employer, trustee, or other payor of funds to liability to the obligor for wrongful withholding;~~

(h) A statement that, ~~noncompliance with the income assignment may subject the employer, trustee, or other payor of funds to the liability and sanctions specified in subsections (8) and (9) of this section~~ IF THE EMPLOYER, TRUSTEE, OR OTHER PAYOR OF FUNDS FAILS TO WITHHOLD INCOME AS THE NOTICE TO WITHHOLD INCOME FOR SUPPORT DIRECTS, THE EMPLOYER, TRUSTEE, OR OTHER PAYOR OF FUNDS SHALL BE LIABLE FOR BOTH THE ACCUMULATED AMOUNT THAT SHOULD HAVE BEEN WITHHELD

FROM THE OBLIGOR'S INCOME AND ANY OTHER PENALTIES SET BY STATE LAW;

(i) A statement that ~~no employer shall discharge or refuse to hire or take~~ THE EMPLOYER, TRUSTEE, OR OTHER PAYOR OF FUNDS SHALL BE SUBJECT TO A FINE DETERMINED UNDER STATE LAW FOR DISCHARGING AN OBLIGOR FROM EMPLOYMENT, REFUSING TO EMPLOY, OR TAKING disciplinary action against an ~~employee~~ OBLIGOR because of ~~the entry or service of a notice of income assignment issued and executed pursuant to this section and that a violation of the same may result in a finding of contempt of court or subject the employer to a fine~~ A NOTICE TO WITHHOLD INCOME FOR SUPPORT;

(j) A statement that the employer shall notify the ~~court or the~~ family support registry, IN WRITING, if payments are required to be made through the registry ~~in writing, within ten days~~ PROMPTLY after the obligor terminates employment and shall provide the ~~court or the~~ family support registry, ~~if applicable,~~ in writing, with the obligor's NAME, DATE OF SEPARATION, CASE IDENTIFIER WHICH SHALL BE THE FAMILY SUPPORT REGISTRY ACCOUNT NUMBER, last-known HOME address, and ~~social security number and~~ the name AND ADDRESS of the obligor's new employer, if known;

(j.5) A STATEMENT THAT WITHHOLDING UNDER THE NOTICE TO WITHHOLD INCOME FOR SUPPORT HAS PRIORITY OVER ANY OTHER LEGAL PROCESS UNDER STATE LAW AGAINST THE SAME INCOME, THAT FEDERAL TAX LEVIES IN EFFECT BEFORE RECEIPT OF THIS NOTICE TO WITHHOLD INCOME FOR SUPPORT HAVE PRIORITY, AND THAT THE REQUESTING AGENCY SHOULD BE CONTACTED IF THERE ARE FEDERAL TAX LEVIES IN EFFECT;

(k) A statement that as long as the obligor is employed by the employer, the income assignment shall not be terminated or modified, except upon written notice by the obligee, the obligee's representative, the delegate child support enforcement unit, or the court;

(k.5) A STATEMENT THAT THE EMPLOYER, TRUSTEE, OR OTHER PAYOR OF FUNDS MAY BE REQUIRED TO REPORT AND WITHHOLD AMOUNTS FROM LUMP SUM PAYMENTS SUCH AS BONUSES, COMMISSIONS, OR SEVERANCE PAY;

(l) ~~A statement that an employer shall not be required to collect, possess, or control the obligor's tips, and any such tips shall not be owed by an employer to an obligor;~~

(l.5) A STATEMENT THAT COLORADO EMPLOYERS, TRUSTEES, OR OTHER PAYORS OF FUNDS MUST COMPLY WITH THIS SECTION.

(8) An employer, trustee, or other payor of funds subject to this section who:

(b) Wrongfully fails to withhold income in accordance with the provisions of this section ~~may be held~~ SHALL BE liable for ~~an amount up to~~ BOTH the accumulated amount the employer, trustee, or other payor of funds should have withheld from the obligor's income AND ANY OTHER PENALTIES SET BY STATE LAW;

(10) (c) An income assignment shall be terminated when ~~the court order for support is terminated~~ ALL CURRENT MAINTENANCE WHEN INCLUDED IN THE CHILD SUPPORT ORDER, PAST DUE SUPPORT, PAST DUE MAINTENANCE WHEN INCLUDED IN THE

CHILD SUPPORT ORDER, CHILD SUPPORT DEBT, MEDICAL SUPPORT, CURRENT MONTHLY CHILD SUPPORT, CURRENT MAINTENANCE, PAST DUE MAINTENANCE, AND PROCESSING FEES, IF ANY, OWED UNDER THE SUPPORT ORDER ARE PAID IN FULL.

(16.3) THE EMPLOYER, TRUSTEE, OR OTHER PAYOR OF FUNDS SHALL INCLUDE WITH THE FIRST DISBURSEMENT AN INDICATION OF WHETHER DEPENDENT HEALTH INSURANCE COVERAGE IS AVAILABLE TO THE OBLIGOR AND WHETHER THE OBLIGOR HAS ELECTED TO ENROLL THE DEPENDENTS WHO ARE THE SUBJECT OF THE ORDER IN SUCH COVERAGE AND THAT SUCH INFORMATION SHALL BE INCLUDED IN A DISBURSEMENT AT LEAST ANNUALLY THEREAFTER OR AT THE NEXT DISBURSEMENT IN THE EVENT OF ANY CHANGE IN THE STATUS OF HEALTH INSURANCE AVAILABILITY OR COVERAGE.

(16.5) THE EMPLOYER SHALL NOT BE REQUIRED TO COLLECT, POSSESS, OR CONTROL THE OBLIGOR'S TIPS, AND ANY SUCH TIPS SHALL NOT BE OWED BY AN EMPLOYER TO AN OBLIGOR.

(16.7) THE EMPLOYER, TRUSTEE, OR OTHER PAYOR OF FUNDS MAY EXTRACT A PROCESSING FEE OF UP TO FIVE DOLLARS PER MONTH FROM THE REMAINDER OF THE OBLIGOR'S INCOME AFTER THE DEDUCTION AND WITHHOLDING.

(18) ~~For those cases in which services are being rendered pursuant to article 13 of title 26, C.R.S., the state department of human services shall promulgate rules requiring that a notice be sent to all obligors, once the assignment has been executed, stating that the income assignment has commenced.~~

(19) A PERSON SUBMITTING A FRAUDULENT NOTICE TO WITHHOLD INCOME FOR SUPPORT TO AN EMPLOYER, TRUSTEE, OR OTHER PAYOR OF FUNDS SHALL BE SUBJECT TO A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS AND COURT COSTS AND ATTORNEY FEES.

SECTION 3. The introductory portion to 14-14-111.5 (4), Colorado Revised Statutes, is amended, and the said 14-14-111.5 (4) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

14-14-111.5. Income assignments for child support or maintenance.
(4) **Notice to withhold income for support.** Ten days after the date the advance notice of activation is mailed to the obligor for income assignments on orders entered during the time periods described in paragraphs (a), (b), and (d) of subsection (2) of this section or immediately for income assignments on orders entered during the time periods described in paragraphs (c), (e), and (f) of subsection (2) of this section, an income assignment may be activated by the obligee by causing a ~~notice of income assignment~~ A NOTICE TO WITHHOLD INCOME FOR SUPPORT to be served upon the employer, trustee, or other payor of funds, by first class mail, or, in a case where the department of human services is the trustee for purposes of an unemployment benefit intercept pursuant to section 8-73-102 (5), C.R.S., by electronic service. Receipt of notice by the employer, trustee, or other payor of funds confers jurisdiction of the court over the employer, trustee, or other payor of funds. In circumstances in which the source of income to the obligor is unemployment compensation benefits and the custodian of the child is receiving support enforcement services pursuant to section 26-13-106, C.R.S., ~~no notice of income assignment~~ NOTICE TO WITHHOLD INCOME

FOR SUPPORT shall be required. In such cases, the state child support enforcement agency shall electronically intercept the unemployment compensation benefits through an automated interface with the department of labor and employment. In all other cases, the ~~notice of income assignment~~ NOTICE TO WITHHOLD INCOME FOR SUPPORT shall contain THE FOLLOWING INFORMATION AND, EXCEPT IN CASES IN WHICH THE OBLIGEE IS RECEIVING CHILD SUPPORT ENFORCEMENT SERVICES PURSUANT TO SECTION 26-13-106, C.R.S., SHALL HAVE A CERTIFIED COPY OF THE SUPPORT ORDER ATTACHED THERETO:

(m) A STATEMENT THAT, IF THE DESIGNATED FIELD ON THE NOTICE TO WITHHOLD INCOME FOR SUPPORT IS CHECKED, THE EMPLOYER, TRUSTEE, OR OTHER PAYOR OF FUNDS IS REQUIRED TO PROVIDE A COPY OF THE NOTICE TO WITHHOLD INCOME FOR SUPPORT TO THE OBLIGOR.

(n) A STATEMENT THAT A FRAUDULENT SUBMISSION OF A NOTICE TO WITHHOLD INCOME FOR SUPPORT SHALL SUBJECT THE PERSON SUBMITTING THE NOTICE TO AN EMPLOYER, TRUSTEE, OR OTHER PAYOR OF FUNDS TO A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS AND COURT COSTS AND ATTORNEY FEES.

SECTION 4. 14-5-501, Colorado Revised Statutes, is amended to read:

14-5-501. Employer's receipt of income-withholding order of another state.

An income-withholding order issued in another state may be sent ~~by first class mail~~ to the person or entity defined as the obligor's employer under the income-withholding law of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

SECTION 5. 14-5-502 (b), Colorado Revised Statutes, is amended to read:

14-5-502. Employer's compliance with income-withholding order of another state. (b) The employer shall treat ~~a certified copy of an income-withholding order or an authenticated copy of an administrative order issued by the equivalent of a state child support enforcement agency or delegate child support enforcement unit of another state~~ issued in another state which appears regular on its face as if it had been issued by a tribunal of this state. ~~or by a delegate child support enforcement unit of this state.~~

SECTION 6. 14-10-115 (18), Colorado Revised Statutes, is amended to read:

14-10-115. Child support - guidelines - schedule of basic child support obligations - repeal. (18) (a) The child support guidelines and general child support issues shall be reviewed and the results of such review and any recommended changes shall be reported to the governor and to the general assembly on or before December 1, 1991, and at least every four years thereafter by a child support commission, which commission is hereby created. As part of its review, the commission must consider economic data on the cost of raising children and analyze case data on the application of, and deviations from, the guidelines to be used in the commission's review to ensure that deviations from the guidelines are limited. In addition, the commission shall review issues identified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, including out-of-wedlock births and the prevention of teen pregnancy. The

child support commission shall consist of no more than fifteen members. The governor shall appoint no fewer than two interested citizens to the commission. Eleven members of the commission appointed by the governor shall include a male custodial parent, a female custodial parent, a male noncustodial parent, a female noncustodial parent, a joint custodial parent, a parent in an intact family, a judge or court magistrate, the director of the division in the state department of human services which is responsible for child support enforcement or his or her designee, an attorney who is knowledgeable in child support, and a director of a county department of social services. In making his or her appointments to the commission, the governor shall attempt to assure geographical diversity by appointing at least one member from each of the congressional districts in the state. The remaining two members of the commission shall be a member of the house of representatives appointed by the speaker of the house of representatives and a member of the senate appointed by the president of the senate and shall not be members of the same political party. The parent representatives, attorney representative, public members, and the legislative members shall not be employees of public agencies or courts which deal with child support issues. Members of the child support commission shall not be compensated for their services on the commission; except that members shall be reimbursed for actual and necessary expenses for travel and mileage incurred in connection with their duties. The child support commission is authorized, subject to appropriation, to incur expenses related to its work, including the costs associated with public hearings, printing, travel, and research.

(b) (Deleted by amendment, L. 92, p. 188, § 1, effective August 1, 1992.)

(c) (Deleted by amendment, L. 91, p. 234, § 1, effective July 1, 1991.)

(d) (Deleted by amendment, L. 92, p. 188, § 1, effective August 1, 1992.)

(e) (Deleted by amendment, L. 94, p. 1536, § 5, effective July 1, 1994.)

(f) IN REVIEWING THE CHILD SUPPORT GUIDELINES AS REQUIRED IN PARAGRAPH (a) OF THIS SUBSECTION (18), THE CHILD SUPPORT COMMISSION SHALL STUDY THE FOLLOWING ISSUES:

(I) THE MERITS OF A STATUTORY TIME LIMITATION OR THE APPLICATION OF THE DOCTRINE OF LACHES OR SUCH OTHER TIME-LIMITING PROVISION ON THE ENFORCEMENT OF SUPPORT JUDGMENTS THAT ARISE PURSUANT TO THE PROVISIONS OF SECTION 14-10-122;

(II) WHETHER DIFFERENT TIME LIMITATIONS ON THE ENFORCEMENT OF SUPPORT JUDGMENTS SHOULD APPLY DEPENDING ON WHETHER SUPPORT PAYMENTS ARE MADE DIRECTLY TO AN OBLIGEE OR WHETHER SUCH PAYMENTS ARE MADE THROUGH THE FAMILY SUPPORT REGISTRY;

(III) THE MERITS OF SUPPORT JUDGMENTS ARISING AUTOMATICALLY AS PROVIDED IN SECTION 14-10-122 (1) (c); AND

(IV) WHETHER SUPPORT OBLIGORS SHOULD RECEIVE ADDITIONAL NOTICE AND AN OPPORTUNITY FOR HEARING PRIOR TO EXECUTION ON SUCH JUDGMENTS.

SECTION 7. 26-2-108 (1) (b), Colorado Revised Statutes, is amended to read:

26-2-108. Granting of assistance payments and social services. (1) (b) In determining the amount of assistance payments to be granted, due account shall be taken of any income or property available to the applicant and any support, either in cash or in kind, which the applicant may receive from other sources, pursuant to rules of the state department. EFFECTIVE JULY 1, 2000, A COUNTY MAY PAY TANF-ELIGIBLE FAMILIES AN AMOUNT THAT IS EQUAL TO THE STATE AND COUNTY SHARE OF CHILD SUPPORT COLLECTIONS AS DESCRIBED IN SECTION 26-13-108 (1). SUCH PAYMENTS SHALL NOT BE CONSIDERED INCOME FOR THE PURPOSE OF GRANT CALCULATION. HOWEVER, SUCH INCOME SHALL BE CONSIDERED INCOME FOR PURPOSES OF DETERMINING ELIGIBILITY. IF A COUNTY CHOOSES TO PAY CHILD SUPPORT COLLECTIONS DIRECTLY TO A TANF-ELIGIBLE FAMILY, THE COUNTY SHALL REPORT SUCH PAYMENTS TO THE STATE DEPARTMENT FOR THE MONTH IN WHICH THEY OCCUR AND INDICATE THE CHOICE OF THIS OPTION IN ITS PERFORMANCE CONTRACT FOR COLORADO WORKS. For the purposes of determining eligibility for public assistance or the amount of assistance payments, compensation received by the applicant pursuant to the "Colorado Crime Victim Compensation Act", part 1 of article 4.1 of title 24, C.R.S., shall not be considered as income, property, or support available to such applicant.

SECTION 8. 26-13-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-13-108. Recovery of public assistance paid for child support and maintenance. (3) EFFECTIVE JULY 1, 2000, A COUNTY MAY PAY FAMILIES THAT ARE ELIGIBLE FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES, PURSUANT TO PART 7 OF ARTICLE 2 OF THIS TITLE, AN AMOUNT THAT IS EQUAL TO THE STATE AND COUNTY SHARE OF CHILD SUPPORT COLLECTIONS AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION. SUCH PAYMENTS SHALL NOT BE CONSIDERED INCOME FOR THE PURPOSE OF GRANT CALCULATION. HOWEVER, SUCH INCOME SHALL BE CONSIDERED INCOME FOR PURPOSES OF DETERMINING ELIGIBILITY. IF A COUNTY CHOOSES TO PAY CHILD SUPPORT COLLECTIONS DIRECTLY TO A FAMILY THAT IS ELIGIBLE FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES, PURSUANT TO PART 7 OF ARTICLE 2 OF THIS TITLE, THE COUNTY SHALL REPORT SUCH PAYMENTS TO THE STATE DEPARTMENT FOR THE MONTH IN WHICH THE PAYMENTS ARE MADE AND SHALL INDICATE THE CHOICE OF THIS OPTION IN ITS PERFORMANCE CONTRACT FOR COLORADO WORKS.

SECTION 9. Article 13 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-13-122.5. Administrative lien and attachment of inmate bank accounts. (1) THE STATE CHILD SUPPORT ENFORCEMENT AGENCY OR THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT MAY ISSUE A NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT, ONLY WHEN SUCH NOTICE IS PRESCRIBED AND APPROVED BY THE STATE CHILD SUPPORT ENFORCEMENT AGENCY, TO THE DEPARTMENT OF CORRECTIONS OR ITS AGENT HAVING CUSTODY OR CONTROL OF INMATE BANK ACCOUNTS IN ORDER TO WITHHOLD FUNDS FROM THE BANK ACCOUNT OF A STATE PRISONER, AS DEFINED IN SECTION 17-1-102 (8), C.R.S., WHO IS AN OBLIGOR RESPONSIBLE FOR THE SUPPORT OF A CHILD OR CHILDREN ON WHOSE BEHALF THE OBLIGEE IS RECEIVING SUPPORT ENFORCEMENT SERVICES FROM THE STATE CHILD SUPPORT ENFORCEMENT AGENCY OR

A DELEGATE CHILD SUPPORT ENFORCEMENT UNIT PURSUANT TO THIS ARTICLE OR WHO IS AN OBLIGOR RESPONSIBLE FOR THE PAYMENT OF MAINTENANCE OR MAINTENANCE WHEN COMBINED WITH CHILD SUPPORT AND THE OBLIGEE IS RECEIVING SUPPORT ENFORCEMENT SERVICES FROM THE STATE CHILD SUPPORT ENFORCEMENT AGENCY OR A DELEGATE CHILD SUPPORT ENFORCEMENT UNIT PURSUANT TO THIS ARTICLE.

(2) A COPY OF THE ADMINISTRATIVE LIEN AND ATTACHMENT SHALL BE PROVIDED TO THE OBLIGOR BY THE DEPARTMENT OF CORRECTIONS OR ITS AGENT AND SHALL INCLUDE INFORMATION ON THE OBLIGOR'S RIGHT TO OBJECT TO THE ADMINISTRATIVE LIEN AND ATTACHMENT AND TO REQUEST AN ADMINISTRATIVE REVIEW PURSUANT TO THE RULES OF THE STATE BOARD.

(3) THE NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT SHALL CONTAIN:

(a) THE NAME AND ADDRESS OF THE CORRECTIONAL FACILITY OR ENTITY THAT WITHHOLDS FUNDS FROM INMATE BANK ACCOUNTS;

(b) THE NAME AND SOCIAL SECURITY NUMBER OF THE INMATE AND THE NAME OF THE CORRECTIONAL FACILITY IN WHICH THE INMATE IS INCARCERATED;

(c) THE TOTAL AMOUNT OWED FOR CURRENT MONTHLY CHILD SUPPORT, CURRENT MAINTENANCE WHEN COMBINED WITH CHILD SUPPORT, CURRENT MAINTENANCE, PAST DUE CHILD SUPPORT, PAST DUE MAINTENANCE WHEN COMBINED WITH CHILD SUPPORT, PAST DUE MAINTENANCE, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, OR MEDICAL SUPPORT;

(d) THE AMOUNT OR PERCENTAGE OF FUNDS TO BE WITHHELD MONTHLY FROM INMATE BANK ACCOUNTS NOT TO EXCEED TWENTY PERCENT OF THE INMATE ACCOUNT EACH MONTH;

(e) A STATEMENT THAT THE NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT IS TO TAKE EFFECT NO LATER THAN FORTY-FIVE DAYS AFTER RECEIPT OF THE NOTICE BY THE DEPARTMENT OF CORRECTIONS;

(f) A STATEMENT THAT IF MORE THAN ONE NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT IS RECEIVED FOR THE SAME OBLIGOR, THE PRIORITIES SET FORTH IN SUBSECTION (4) OF THIS SECTION SHALL APPLY;

(g) INSTRUCTION ON THE DISBURSEMENT OF THE WITHHELD AMOUNTS, INCLUDING THE REQUIREMENTS THAT EACH DISBURSEMENT:

(I) SHALL BE FORWARDED TO THE FAMILY SUPPORT REGISTRY;

(II) SHALL BE FORWARDED WITHIN TEN CALENDAR DAYS AFTER THE DATE OF EACH DEDUCTION AND WITHHOLDING;

(III) SHALL BE IDENTIFIED BY THE CASE NUMBER, THE FAMILY SUPPORT REGISTRY ACCOUNT NUMBER, AND THE NAME AND SOCIAL SECURITY NUMBER OF THE OBLIGOR AND SHALL IDENTIFY THE DATE THE DEDUCTION WAS MADE AND THE AMOUNT OF THE PAYMENT;

(h) A STATEMENT THAT COMPLIANCE WITH THE NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT SHALL NOT SUBJECT THE DEPARTMENT OF CORRECTIONS OR ITS AGENT TO LIABILITY TO THE OBLIGOR FOR WRONGFUL WITHHOLDING OF FUNDS;

(i) A STATEMENT THAT, AS LONG AS THE OBLIGOR IS INCARCERATED AND HAS AN OBLIGATION PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (3), THE NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT SHALL NOT BE TERMINATED OR MODIFIED, EXCEPT UPON WRITTEN NOTICE BY THE STATE CHILD SUPPORT ENFORCEMENT AGENCY OR THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT, UNLESS THE INMATE IS INDIGENT ACCORDING TO DEPARTMENT OF CORRECTIONS GUIDELINES.

(4) AN ADMINISTRATIVE LIEN AND ATTACHMENT FOR THE COLLECTION FROM INMATE BANK ACCOUNTS OF CURRENT MONTHLY CHILD SUPPORT, CURRENT MAINTENANCE WHEN COMBINED WITH CHILD SUPPORT, CURRENT MAINTENANCE, PAST DUE CHILD SUPPORT, PAST DUE MAINTENANCE WHEN COMBINED WITH CHILD SUPPORT, PAST DUE MAINTENANCE, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, OR MEDICAL SUPPORT SHALL BE CONTINUING AND SHALL HAVE PRIORITY OVER ANY GARNISHMENT, LIEN, OR WAGE ASSIGNMENT OTHER THAN A NOTICE PREVIOUSLY SERVED PURSUANT TO SUBSECTION (1) OF THIS SECTION OR A WAGE ASSIGNMENT ACTIVATED PURSUANT TO SECTION 14-14-107 OR 14-14-111, C.R.S., AS THOSE SECTIONS EXISTED PRIOR TO JULY 1, 1996, OR SECTION 14-14-111.5, C.R.S. IN ORDER TO ATTACH INMATE BANK ACCOUNTS FOR CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, MEDICAL SUPPORT, CHILD SUPPORT ARREARAGES, OR CHILD SUPPORT WHEN COMBINED WITH MAINTENANCE, THE STATE CHILD SUPPORT ENFORCEMENT AGENCY OR THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT IS AUTHORIZED TO SERVE, BY FIRST-CLASS MAIL, A NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT ON THE DEPARTMENT OF CORRECTIONS OR ITS AGENT TO WITHHOLD FUNDS OF AN OBLIGOR.

(5) SUBSECTIONS (1), (2), AND (3) OF THIS SECTION SHALL APPLY TO ALL CHILD SUPPORT OBLIGATIONS, MAINTENANCE WHEN COMBINED WITH CHILD SUPPORT, MAINTENANCE OBLIGATIONS, RETROACTIVE CHILD SUPPORT OBLIGATIONS, AND MEDICAL SUPPORT OBLIGATIONS ORDERED AS A PART OF ANY PROCEEDING, REGARDLESS OF WHEN THE ORDER WAS ENTERED, AND ALL SUCH OBLIGORS SHALL BE SUBJECT TO NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT AS DESCRIBED IN SUBSECTIONS (1), (2), AND (3) OF THIS SECTION.

SECTION 10. 26-13-128 (1), (2), (4), and (6), Colorado Revised Statutes, are amended to read:

26-13-128. Agreements with financial institutions - data match system - limited liability. (1) The general assembly authorizes the state department, OR ITS AGENT, to design and implement a program pursuant to which the state department, OR ITS AGENT, shall enter into agreements with financial institutions doing business in the state. To effectuate the purpose of this section, the executive director may request and shall receive from such financial institutions or any state entity, such as a department, board, or agency of the state or any of its political subdivisions, the information and action described in this section.

(2) The purpose of the program authorized by this section shall be to develop and operate, in coordination with such financial institutions and state entities, a data

match system, using automated data exchanges, to the maximum extent feasible, in which each such financial institution or state entity is required to provide semiannually the name, record address, and social security number, or other taxpayer identification number, of any account holder or customer that maintains an account at such institution or entity and who owes past-due child support, as identified by the state by name and social security number, or other taxpayer identification number. The state department shall enter into an agreement with each financial institution and state entity, which agreement shall specify a schedule of data matches. The agreement shall provide that the ~~financial institution or state entity shall have~~ DATA MATCH BE PERFORMED BY THE FINANCIAL INSTITUTION WITHIN forty-five days after the receipt of the informational electronic or magnetic data. ~~from the child support enforcement agency to conduct the data match required by this subsection (2).~~ The agreement shall also provide that the ~~financial institution or state entity shall return~~ the data BE RETURNED in electronic or magnetic form ~~to the child support enforcement agency~~ within three business days after conducting the data match. The financial institution or state entity shall include information concerning all accounts where a data match occurs, including, but not limited to, information regarding joint accounts, partnership accounts, sole proprietorship accounts, custodial accounts, and commercial accounts. The child support enforcement agency shall make a reasonable effort to accommodate those financial institutions upon which the requirements of this section would pose a hardship. The financial institution or entity, in response to a notice of lien or levy from the state department, shall encumber or surrender assets, except for custodial accounts created pursuant to the "Colorado Uniform Transfers to Minors Act", article 50 of title 11, C.R.S., and except for trust accounts of moneys held in trust for a third party, held by such institution or entity on behalf of any obligor parent who is subject to a child support lien, subject to any right of setoff the financial institution may have against such assets. ~~In addition to any right of setoff the financial institution may have;~~ Before the financial institution surrenders any assets of the obligor parent to the state department, the financial institution ~~shall~~ MAY apply, AT THE SOLE DISCRETION OF THE FINANCIAL INSTITUTION, any assets held by the financial institution on behalf of the obligor parent against the balance of any amounts owed by the obligor parent to the financial institution, regardless of whether the obligor parent is in default under any agreement with the financial institution or whether any payments are currently due to the financial institution. ~~subject to prior agreement of the obligor parent.~~

(4) ~~The state board shall promulgate rules addressing~~ DEPARTMENT SHALL ASSURE, THROUGH RULES OF THE STATE BOARD, THAT THERE ARE appropriate procedures to be followed by THE STATE DEPARTMENT OR the delegate child support enforcement unit with respect to certain special types of financial institution accounts, including but not limited to joint, partnership, sole proprietorship, custodial, and commercial accounts, which rules shall identify factors the delegate child support enforcement unit shall consider in determining whether to attach the account or any portion of such account. Such rules shall specifically provide that custodial accounts created pursuant to the "Colorado Uniform Transfers to Minors Act", article 50 of title 11, C.R.S., and trust accounts of moneys held in trust for a third party shall not be attached, encumbered, or surrendered for purposes of enforcing support.

(6) A financial institution shall be entitled to ~~reimbursement~~ A REASONABLE FEE in the amount of five cents per name per quarter, ~~for the costs associated with designing and implementing a system for compliance with the requirements of this~~

~~article, not to exceed the actual ITS costs, associated with designing and implementing such a system.~~ FOR FULFILLING THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION.

SECTION 11. 42-2-107 (3), Colorado Revised Statutes, is amended to read:

42-2-107. Application for license or instruction permit - anatomical gifts - donations to organ and tissue donation awareness fund - legislative declaration - repeal. (3) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), on ~~or~~ AND after ~~July 1, 1974,~~ OCTOBER 1, 2000, an application for a driver's, minor driver's, or provisional driver's license ~~and~~ SHALL INCLUDE THE APPLICANT'S SOCIAL SECURITY NUMBER. IF THE APPLICANT DOES NOT HAVE A SOCIAL SECURITY NUMBER, THE APPLICANT SHALL SUBMIT A SWORN STATEMENT, TOGETHER WITH THE APPLICATION, STATING THAT THE APPLICANT DOES NOT HAVE A SOCIAL SECURITY NUMBER. The license issued as a result of said application may, at the applicant's option, contain an identification number, which shall be the applicant's social security number.

(b) IF FEDERAL LAW IS CHANGED TO PROHIBIT THE COLLECTION OF SOCIAL SECURITY NUMBERS ON DRIVER'S LICENSE APPLICATIONS, THE DEPARTMENT SHALL AUTOMATICALLY STOP ITS PRACTICE OF INCLUDING APPLICANTS' SOCIAL SECURITY NUMBERS ON APPLICATIONS FOR DRIVER'S, MINOR DRIVER'S, AND PROVISIONAL DRIVER'S LICENSES AS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (3).

SECTION 12. 14-14-113 (1) (a), Colorado Revised Statutes, is amended to read:

14-14-113. Recordation of social security numbers in certain family matters.

(1) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), effective July 1, 1997, every application for, or application for the renewal of, a professional or occupational license or certificate, a commercial driver's license pursuant to section 42-2-403, C.R.S., or a marriage license pursuant to section 14-2-105 sought by an individual person shall require the applicant's social security number. Such social security number shall be recorded on the application regardless of the licensing agency's use of another number on the social security field on the license. Nothing in this paragraph (a) shall be construed to require that a person's social security number appear on the professional or occupational license, commercial driver's license, or marriage license.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), IF AN APPLICANT FOR A PROFESSIONAL OR OCCUPATIONAL LICENSE, COMMERCIAL DRIVER'S LICENSE, OR MARRIAGE LICENSE SUBMITS A SWORN STATEMENT, TOGETHER WITH THE APPLICATION, STATING THAT THE APPLICANT DOES NOT HAVE A SOCIAL SECURITY NUMBER, SUCH APPLICANT SHALL NOT BE REQUIRED TO PROVIDE A SOCIAL SECURITY NUMBER ON HIS OR HER APPLICATION AS REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

SECTION 13. Appropriation - adjustment in 2000 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for the fiscal year beginning July 1, 2000, the sum of fifty-four thousand eight hundred ten dollars (\$54,810) and 1.0 FTE, or so much thereof as may be necessary, for the

implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriations act for the fiscal year beginning July 1, 2000, shall be adjusted as follows:

(a) The general fund appropriation to the capital construction fund outlined in section 3 (1) (f) is reduced by fifty-four thousand eight hundred ten dollars (\$54,810).

(b) The capital construction fund exempt appropriation to the department of transportation, construction projects, is reduced by fifty-four thousand eight hundred ten dollars (\$54,810).

(c) The appropriation made by this section shall become available only if H.B. 00-1169 does not become law or if H.B. 00-1169 becomes law, but does not include an appropriation of \$72,215 general fund and 1.0 FTE.

SECTION 14. Effective date. (1) Sections 1 through 8 and sections 10 through 14 shall take effect July 1, 2000.

(2) Section 9 shall take effect September 1, 2000; except that section 9 of the bill shall only take effect if House Bill 00-1169 is enacted by the sixty-second general assembly and becomes law.

SECTION 15. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2000