

## CHAPTER 121

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**CHILDREN AND DOMESTIC MATTERS**

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**SENATE BILL 04-064**

BY SENATOR(S) Reeves;  
also REPRESENTATIVE(S) Hefley, Boyd, Frangas, Madden, May M., McGihon, Merrifield, Paccione, Romanoff, Schultheis,  
Wiens, and Williams S.

**AN ACT****CONCERNING SUPPORT OBLIGATIONS.**

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

**SECTION 1.** 14-10-115 (5), (10) (a) (II) (A), (13.5) (h) (II), and (19), Colorado Revised Statutes, are amended to read:

**14-10-115. Child support - guidelines - schedule of basic child support obligations.** (5) The child support guideline shall be used with standardized child support guideline forms to be issued by the ~~supreme court, which forms shall be periodically updated when necessary~~ JUDICIAL DEPARTMENT. THE JUDICIAL DEPARTMENT IS RESPONSIBLE FOR PROMULGATING AND UPDATING THE COLORADO CHILD SUPPORT GUIDELINE FORMS, SCHEDULES, AND INSTRUCTIONS.

(10) **Basic child support obligations.** (a) (II) (A) The category entitled "combined gross income" in the schedule means the combined monthly adjusted gross incomes of both parents. For the purposes of subsections (3) to (14) of this section, "adjusted gross income" means gross income less preexisting child support obligations and less alimony or maintenance actually paid by a parent. For combined gross income amounts falling between amounts shown in the schedule, basic child support amounts shall be ~~extrapolated~~ INTERPOLATED. The category entitled "number of children due support" in the schedule means children for whom the parents share joint legal responsibility and for whom support is being sought.

(13.5) (h) **Extraordinary medical expenses.** (II) Extraordinary medical expenses are uninsured expenses, including copayments and deductible amounts, in excess of two hundred fifty dollars per child per CALENDAR year. Extraordinary medical expenses shall include, but need not be limited to, such reasonable costs as

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

are reasonably necessary for orthodontia, dental treatment, asthma treatments, physical therapy, vision care, and any uninsured chronic health problem. At the discretion of the court, professional counseling or psychiatric therapy for diagnosed mental disorders may also be considered as an extraordinary medical expense.

(19) ~~The judicial department is responsible for promulgating and updating the Colorado child support guideline forms, schedules, and instructions.~~

**SECTION 2.** 14-10-122 (1.5) (b) (II), (1.5) (c) (II), (1.5) (e) (I), and (1.5) (e) (II), Colorado Revised Statutes, are 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 for the ~~life of the judgment~~ EARLIER OF TWELVE YEARS or until all past-due amounts are paid, including any accrued interest and costs, without the necessity of renewal. A LIEN ON REAL PROPERTY ARISING PURSUANT TO THIS SUBSECTION (1.5) MAY BE EXTENDED OR RENEWED INDEFINITELY BEYOND TWELVE YEARS BY RERECORDING THE LIEN EVERY TWELVE YEARS. 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.

(c) **Lien on personal property other than wages and moneys held by a financial institution as defined by 42 U.S.C. sec. 669 (d) or motor vehicles.** (II) The lien on personal property created by this section shall remain in effect FOR THE EARLIER OF twelve years or until all past-due amounts are paid, including any accrued interest and costs, without the necessity of renewal. A LIEN ON PERSONAL PROPERTY ARISING PURSUANT TO THIS SUBSECTION (1.5) MAY BE EXTENDED OR RENEWED INDEFINITELY BEYOND TWELVE YEARS BY RERECORDING THE LIEN EVERY TWELVE YEARS. Within twenty calendar days after satisfaction of the debt or debts described in the notice of lien, the state child support enforcement agency shall file a release of lien with the secretary of state. The filing of such a release of lien shall be conclusive evidence that the lien is extinguished.

(e) **Priority of a lien.** (I) A lien on real property created pursuant to this section shall be in effect for THE EARLIER OF twelve years or until all past-due amounts are paid and shall have priority over all unrecorded liens and all subsequent recorded or unrecorded liens from the time of recording, except such liens as may be exempted by regulation of the state board of human services. A lien on real property arising pursuant to this subsection (1.5) ~~shall expire at the conclusion of twelve years and may not be extended or renewed beyond that period of time~~ MAY BE EXTENDED OR RENEWED INDEFINITELY BEYOND TWELVE YEARS BY RERECORDING THE LIEN EVERY TWELVE YEARS.

(II) A lien on personal property, other than motor vehicles, created pursuant to this section shall be in effect for THE EARLIER OF twelve years or until all past-due amounts are paid and shall have priority from the time the lien is filed with the central filing officer over all unfiled liens and all subsequent filed or unfiled liens, except such liens as may be exempted by regulation of the state board of human services.

A lien on personal property arising pursuant to this subsection (1.5) ~~shall expire at the conclusion of twelve years and may not be extended or renewed beyond that period of time~~ MAY BE EXTENDED OR RENEWED INDEFINITELY BEYOND TWELVE YEARS BY RERECORDING THE LIEN EVERY TWELVE YEARS.

**SECTION 3.** 14-14-102 (4.5), Colorado Revised Statutes, is amended to read:

**14-14-102. Definitions.** As used in this article, unless the context otherwise requires:

(4.5) "Family support registry" means a central registry maintained and operated by the state department of human services pursuant to section 26-13-114, C.R.S., that receives, processes, disburses, and maintains a record of the payment of child support, child support when combined with maintenance, MAINTENANCE, child support arrearages, or child support debt.

**SECTION 4.** 26-2-111 (3) (a) (III), Colorado Revised Statutes, is amended to read:

**26-2-111. Eligibility for public assistance. (3) Colorado works program.** (a) A person by signing an application for the works program created in part 7 of this article assigns, by operation of law, to the state department, all rights the applicant may have to support from any other person on his or her own behalf or on behalf of any other family member for whom application is made. For the purposes of this subsection (3), the assignment:

(III) Shall remain in effect with respect to the amounts of any unpaid support obligation accrued under the assignment that was owed prior to the termination of works program assistance to a recipient UP TO THE AMOUNT OF THE COST OF ASSISTANCE PROVIDED; and

**SECTION 5.** Article 13 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**26-13-102.8. Nondisclosure of information in exceptional circumstances.** IF A PARTY ALLEGES IN AN AFFIDAVIT OR A PLEADING UNDER OATH THAT THE HEALTH, SAFETY, OR LIBERTY OF A PARTY OR CHILD WOULD BE JEOPARDIZED BY DISCLOSURE OF SPECIFIC IDENTIFYING INFORMATION, THAT INFORMATION SHALL BE SEALED AND MAY NOT BE DISCLOSED TO THE OTHER PARTY OR THE PUBLIC. A PARTY SEEKING DISCLOSURE OF ALL OR PART OF SUCH IDENTIFYING INFORMATION MAY REQUEST A HEARING BEFORE THE COURT. AFTER A HEARING IN WHICH THE COURT TAKES INTO CONSIDERATION THE HEALTH, SAFETY, OR LIBERTY OF THE PARTY OR CHILD, THE COURT SHALL MAKE FINDINGS BASED UPON THE CONSIDERATIONS SPECIFIED IN THIS SECTION AND MAY ORDER DISCLOSURE OF ALL OR PART OF THE INFORMATION IF THE COURT DETERMINES THE DISCLOSURE TO BE IN THE INTEREST OF JUSTICE.

**SECTION 6.** 26-13-113, Colorado Revised Statutes, is amended to read:

**26-13-113. Placement in foster care automatic assignment of right.** When a child is placed in foster care pursuant to article 5 of this title and Title IV-E of the federal "Social Security Act", as amended, all rights to current and accrued child

support for the benefit of the child are assigned by operation of law to the state department. When placement has terminated, the assignment of rights to accrued child support shall remain in effect until foster care maintenance costs have been reimbursed in full IN THOSE CASES IN WHICH THE CHILDREN WERE NOT ELIGIBLE FOR ASSISTANCE UNDER TITLE IV-E OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED. FOR CASES IN WHICH CHILDREN WERE ELIGIBLE FOR ASSISTANCE UNDER TITLE IV-E OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, THE CRITERIA FOR ASSIGNMENT OF RIGHTS SET FORTH IN SECTION 26-2-111 (3) (a), SHALL APPLY. Amounts collected pursuant to this section shall be distributed to the federal government, the state, and the county proportionately according to each entity's contribution.

**SECTION 7.** 26-13-122 (1) (d), Colorado Revised Statutes, is amended to read:

**26-13-122. Administrative lien and attachment.** (1) The state child support enforcement agency may issue a notice of administrative lien and attachment to any person, insurance company, or agency providing workers' compensation insurance benefits for any employer to attach workers' compensation benefits of an obligor who is responsible for the support of a child on whose behalf the obligee is receiving support enforcement services from the state's child support enforcement agency pursuant to this article. The notice shall include the following statements and information:

(d) The percentage of benefits ~~and~~ OR the actual amount to be withheld from each payment;

**SECTION 8.** 26-13-122.5 (3) (d) and (4), Colorado Revised Statutes, are amended to read:

**26-13-122.5. Administrative lien and attachment of inmate bank accounts.**

(3) The notice of administrative lien and attachment shall contain:

(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~~ WHICH AMOUNT OR PERCENTAGE SHALL NOT BE LESS THAN FIFTY PERCENT OF THE TOTAL AMOUNT WITHHELD PURSUANT TO SECTION 16-18.5-106 (2), C.R.S.;

(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 OR BY ELECTRONIC SERVICE, a notice of administrative lien and attachment on the department of

corrections or its agent to withhold funds of an obligor.

**SECTION 9.** 26-13-128 (2), Colorado Revised Statutes, is amended to read:

**26-13-128. Agreements with financial institutions - data match system - limited liability.** (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 AT LEAST 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 data match be performed by the financial institution within forty-five days after the receipt of the informational electronic or magnetic data. The agreement shall also provide that the data be returned in electronic or magnetic form 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. Before the financial institution surrenders any assets of the obligor parent to the state department, the financial institution 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. SERVICE OF A NOTICE OF LIEN OR LEVY PURSUANT TO THIS SUBSECTION (2) SHALL BE MADE BY UNITED STATES FIRST CLASS MAIL, AND IN ADDITION MAY BE MADE BY UNITED STATES REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, THE COST FOR WHICH MAY BE WITHHELD BY THE FINANCIAL INSTITUTION OR STATE ENTITY FROM THE ACCOUNT OF THE OBLIGOR PARENT.

**SECTION 10. Effective date.** This act shall take effect July 1, 2004.

**SECTION 11. 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: April 8, 2004