

## CHAPTER 308

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**GOVERNMENT - STATE**

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## HOUSE BILL 09-1137

BY REPRESENTATIVE(S) Judd, Benefield, Frangas, Green, Ryden, Todd, Kefalas, Labuda;  
also SENATOR(S) Newell, Boyd, Groff, Harvey, Hudak, Schultheis.

## AN ACT

CONCERNING INTERCEPTS, AND, IN CONNECTION THEREWITH, INTERCEPTING GAMBLING WINNINGS TO PAY OUTSTANDING RESTITUTION, AND REQUIRING THE DEPARTMENT OF REVENUE TO PROVIDE SPECIFIED INFORMATION TO STATE AGENCIES IN CONJUNCTION WITH INTERCEPTS OF TAX REFUNDS.

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

**SECTION 1. Repeal.** 12-47.1-531 (2), Colorado Revised Statutes, is repealed as follows:

**12-47.1-531. Payments of winnings - intercept.** (2) ~~This section shall be repealed if part 6 of article 35 of title 24, C.R.S., is repealed pursuant to section 24-35-608, C.R.S.~~

**SECTION 2. Repeal.** 12-60-507 (1) (w) (II), Colorado Revised Statutes, is repealed as follows:

**12-60-507. Investigation - denial, suspension, and revocation actions against licensees - unlawful acts.** (1) (w) (II) ~~This paragraph (w) shall be repealed if part 6 of article 35 of title 24, C.R.S., is repealed pursuant to section 24-35-608, C.R.S.~~

**SECTION 3. Repeal.** 12-60-513 (2), Colorado Revised Statutes, is repealed as follows:

**12-60-513. Payments of winnings - intercept.** (2) ~~This section shall be repealed if part 6 of article 35 of title 24, C.R.S., is repealed pursuant to section 24-35-608, C.R.S.~~

**SECTION 4.** 24-33.5-506 (1), Colorado Revised Statutes, is amended BY THE

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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.*

ADDITION OF A NEW PARAGRAPH to read:

**24-33.5-506. Victims assistance and law enforcement fund - creation.**

(1) There is hereby created in the state treasury a fund to be known as the victims assistance and law enforcement fund, referred to in this section and sections 24-33.5-507 and 24-33.5-508 as the "fund". The state treasurer shall credit to the fund all moneys deposited with the state treasurer pursuant to section 24-4.2-105 (1) and voluntary victim assistance payments from inmates pursuant to article 24 of title 17, C.R.S. The general assembly shall make annual appropriations of the moneys in the fund to the division:

(c.5) (I) FOR ALLOCATION DURING THE STATE FISCAL YEARS 2010-11 AND 2011-12, BASED ON RECOMMENDATIONS FROM THE ADVISORY BOARD, TO THE GAMBLING PAYMENT INTERCEPT CASH FUND CREATED IN SECTION 24-35-605.5, FOR USE BY THE DEPARTMENT OF REVENUE IN ACCORDANCE WITH SECTION 24-35-605.5 (2)(a); EXCEPT THAT MONEYS SHALL NOT BE ALLOCATED FOR SUCH PURPOSE UNLESS ALL OTHER PERMISSIBLE DISTRIBUTIONS AND ALLOCATIONS HAVE BEEN MADE FROM THE FUND.

(II) THIS PARAGRAPH (c.5) IS REPEALED, EFFECTIVE JULY 1, 2012.

**SECTION 5.** 24-35-602 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

**24-35-602. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(f) VICTIMS OF CRIME AND ALL THE PEOPLE OF THE STATE ARE ADVERSELY AFFECTED WHEN CRIMINAL OFFENDERS DIVERT RESTITUTION TO LIMITED GAMING AND PARI-MUTUEL WAGERING.

(g) A CRIMINAL OFFENDER'S WINNINGS FROM MONEY DIVERTED FROM RESTITUTION SHOULD BE APPLIED TO THE OFFENDER'S OUTSTANDING CRIMINAL COURT OBLIGATIONS.

**SECTION 6.** 24-35-603 (2), Colorado Revised Statutes, is amended to read:

**24-35-603. Definitions.** As used in this part 6, unless the context otherwise requires:

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

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

(II) RESTITUTION THAT A PERSON HAS BEEN ORDERED TO PAY PURSUANT TO SECTION 18-1.3-603 OR 19-2-918, C.R.S., REGARDLESS OF THE DATE THAT THE RESTITUTION WAS ORDERED.

(b) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS SUBSECTION (2), AN OUTSTANDING DEBT SHALL NOT BE LESS THAN THREE HUNDRED DOLLARS.

**SECTION 7.** 24-35-604 (2), (3), (4) (c), and (4) (d), Colorado Revised Statutes, are amended, and the said 24-35-604 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**24-35-604. Registry - creation - information.** (1.5) ON AND AFTER THE DATE THAT THE JUDICIAL DEPARTMENT RECEIVES NOTICE FROM THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 24-35-605.5 (2) (b) (I), THE JUDICIAL DEPARTMENT SHALL CERTIFY TO THE REGISTRY OPERATOR THE INFORMATION INDICATED IN SUBSECTION (4) OF THIS SECTION REGARDING PERSONS WITH AN OUTSTANDING DEBT AS SPECIFIED IN SECTION 24-35-603 (2) (a) (II).

(2) The department of human services shall certify to the registry operator the information indicated in subsection (4) of this section regarding each child support obligor with an outstanding debt as ~~defined~~ SPECIFIED in ~~section 24-35-603 (2)~~ SECTION 24-35-603 (2) (a) (I).

(3) The registry operator shall enter in the registry the information certified to the registry operator by the JUDICIAL DEPARTMENT AND THE department of human services pursuant to ~~subsection (2)~~ SUBSECTIONS (1.5) AND (2) of this section.

(4) The registry shall contain the following information:

(c) The account or case identifier assigned to the outstanding debt by the department of ~~human services~~ THAT CERTIFIED THE INFORMATION TO THE REGISTRY OPERATOR;

(d) The name, telephone number, and address of the department of ~~human services~~ THAT CERTIFIED THE INFORMATION TO THE REGISTRY OPERATOR REGARDING EACH PERSON WITH AN OUTSTANDING DEBT; and

**SECTION 8.** 24-35-604, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-35-604. Registry - creation - information.** (5) ON AND AFTER THE DATE THAT THE JUDICIAL DEPARTMENT RECEIVES NOTICE FROM THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 24-35-605.5 (2) (b) (I), THE REGISTRY OPERATOR SHALL ADD A FEE OF TWENTY-FIVE DOLLARS TO EACH OUTSTANDING DEBT CERTIFIED BY A DEPARTMENT PURSUANT TO THIS SECTION.

**SECTION 9.** 24-35-605 (2) (b), Colorado Revised Statutes, is amended, and the said 24-35-605 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**24-35-605. Payments - limited gaming and pari-mutuel wagering licensees - procedures.** (2) (b) If the registry operator replies that the winner is listed in the registry:

(I) The reply from the registry operator to the licensee shall indicate the name,

telephone number, and address of the department of ~~human services~~ THAT CERTIFIED THE INFORMATION TO THE REGISTRY and the amount of the winner's outstanding debt.

(II) The licensee shall withhold from the amount of the payment an amount equal to the amount certified pursuant to ~~section 24-35-604 (2)~~ SECTION 24-35-604. If the amount of the payment is less than or equal to the amount certified, the licensee shall withhold the entire amount of the payment. The licensee shall refer the winner to the department of ~~human services~~ THAT REPORTED THE OUTSTANDING DEBT TO THE REGISTRY.

(III) Within twenty-four hours after withholding a payment pursuant to subparagraph (II) of this paragraph (b), the licensee shall send the amount withheld to the registry operator and report to the registry operator the full name, address, and social security number of the winner, the account or case identifier assigned by the department of ~~human services~~ THAT REPORTED THE OUTSTANDING DEBT TO THE REGISTRY, the date and amount of the payment, and the name and location of the licensee.

(IV) The registry operator shall send to the CERTIFYING department of ~~human services~~ the moneys and information received from a licensee pursuant to subparagraph (III) of this paragraph (b). IF MORE THAN ONE DEPARTMENT CERTIFIED A WINNER, THE REGISTRY OPERATOR SHALL SEND THE INFORMATION TO EACH CERTIFYING DEPARTMENT AND DISTRIBUTE THE MONEYS AMONG THE DEPARTMENTS AS FOLLOWS:

(A) THE REGISTRY OPERATOR SHALL SEND TO THE DEPARTMENT OF HUMAN SERVICES ANY AMOUNT CERTIFIED BY THE DEPARTMENT OF HUMAN SERVICES.

(B) OF ANY MONEYS REMAINING AFTER THE DISTRIBUTION, IF ANY, TO THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (IV), THE REGISTRY OPERATOR SHALL SEND TO THE JUDICIAL DEPARTMENT ANY AMOUNT CERTIFIED BY THE JUDICIAL DEPARTMENT.

(V) The department of human services shall process moneys received from the registry operator pursuant to subparagraph (IV) of this paragraph (b) in accordance with section 26-13-118.7, C.R.S. THE JUDICIAL DEPARTMENT SHALL PROCESS MONEYS RECEIVED FROM THE REGISTRY OPERATOR PURSUANT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH (b) IN ACCORDANCE WITH THE RULES OF THE DEPARTMENT.

(3) THE REGISTRY OPERATOR SHALL DEDUCT AN AMOUNT EQUAL TO THE FEE ADDED TO THE OUTSTANDING DEBT PURSUANT TO SECTION 24-35-604 (5) FROM EACH PAYMENT RECEIVED FROM A LICENSEE AND FORWARD SUCH AMOUNT TO THE STATE TREASURER FOR DEPOSIT IN THE GAMBLING PAYMENT INTERCEPT CASH FUND CREATED IN SECTION 24-35-605.5.

**SECTION 10.** Part 6 of article 35 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-35-605.5. Gambling payment intercept cash fund - creation - gifts, grants, donations - intercepts for restitution.** (1) THERE IS HEREBY CREATED IN THE

STATE TREASURY THE GAMBLING PAYMENT INTERCEPT CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND SHALL CONSIST OF ANY MONEYS DEPOSITED IN THE FUND PURSUANT TO SECTION 24-35-605 (3), ANY ALLOCATIONS MADE TO THE FUND PURSUANT TO SECTION 24-33.5-506 (1) (c.5) (I), ANY OTHER MONEYS APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY, AND ANY GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES, WHICH THE DEPARTMENT OF REVENUE IS HEREBY AUTHORIZED TO SEEK AND ACCEPT FOR THE PURPOSES SET FORTH IN THIS SECTION. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. THE STATE TREASURER SHALL ALSO CREDIT TO THE FUND ANY MONEYS THAT ARE ALLOCATED THERETO PURSUANT TO SECTION 24-33.5-506 (1) (c.5) (I).

(2) (a) THE MONEYS IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT OF REVENUE FOR THE PURPOSE OF EXPANDING THE PROGRAM ESTABLISHED BY THIS PART 6 TO INCLUDE INTERCEPTS OF RESTITUTION THAT A PERSON HAS BEEN ORDERED TO PAY PURSUANT TO SECTION 18-1.3-603 OR 19-2-918, C.R.S., AS CERTIFIED BY THE JUDICIAL DEPARTMENT. AS SOON AS THERE ARE SUFFICIENT MONEYS IN THE FUND, THE DEPARTMENT OF REVENUE SHALL EXPAND THE PROGRAM FOR SUCH PURPOSE.

(b) ONCE THE INTERCEPT PROGRAM HAS BEEN EXPANDED AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2):

(I) THE DEPARTMENT OF REVENUE SHALL NOTIFY THE JUDICIAL DEPARTMENT AND THE REGISTRY OPERATOR THAT THE JUDICIAL DEPARTMENT MAY BEGIN CERTIFYING OUTSTANDING DEBT PURSUANT TO SECTION 24-35-604 (1.5); AND

(II) MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS PART 6.

(c) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSES SET FORTH IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2) MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED OR REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

**SECTION 11.** 24-35-607 (2), (3) (b), and (3) (c), Colorado Revised Statutes, are amended, and the said 24-35-607 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**24-35-607. Contracting authority - memoranda of understanding - rules.**

(2) The department of revenue may enter into ~~a memorandum~~ MEMORANDA of understanding with the JUDICIAL DEPARTMENT AND THE department of human services to implement this part 6. If the registry is operated by a private entity pursuant to this section, the registry operator may enter into ~~a memorandum~~ MEMORANDA of understanding with the JUDICIAL DEPARTMENT AND THE department

of human services to implement this part 6.

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

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

(c) The protection of the confidentiality of information in the registry; AND

(d) THE CIRCUMSTANCES AND MEANS BY WHICH AN OUTSTANDING DEBT MAY BE COLLECTED FROM A LICENSEE PURSUANT TO SECTION 24-35-605 (2) (b) (IV).

**SECTION 12. Repeal.** 24-35-608, Colorado Revised Statutes, is repealed as follows:

**24-35-608. Conditional repeal of part.** ~~(1) This part 6 shall be repealed if, within twelve months beginning July 1, 2008, there is no winner identified as listed in the registry to whom payment would otherwise be payable by a licensee. If there is no such winner identified as listed in the registry within the twelve-month period, the registry operator shall, at the expiration of the twelve-month period, immediately notify the revisor of statutes, in writing.~~

~~(2) This part 6 shall be repealed upon receipt by the revisor of statutes of the notification described in subsection (1) of this section.~~

**SECTION 13.** 26-13-118.7 (3) and (6), Colorado Revised Statutes, are amended to read:

**26-13-118.7. Gambling winnings - interception - rules.** (3) ~~The state department shall deposit a payment received from the registry operator pursuant to section 24-35-605 (2) (b), C.R.S., with the state treasurer.~~ UPON RECEIPT OF A PAYMENT FROM THE REGISTRY OPERATOR PURSUANT TO SECTION 24-35-605 (2) (b), C.R.S., THE STATE DEPARTMENT SHALL DEPOSIT THE PAYMENT WITH THE FAMILY SUPPORT REGISTRY CREATED PURSUANT TO SECTION 26-13-114. After the final disposition of any administrative review requested pursuant to subsection (2) of this section, the state department shall disburse the payment ~~to the family support registry created in section 26-13-114~~ for processing or for distribution to the individual receiving support enforcement services pursuant to section 26-13-106, as appropriate.

~~(6) This section shall be repealed if part 6 of article 35 of title 24, C.R.S., is repealed pursuant to section 24-35-608, C.R.S.~~

**SECTION 14.** 39-21-108 (3) (a) (III), (3) (a) (IV), (3) (a) (V), and (3) (a) (VI), Colorado Revised Statutes, are amended to read:

**39-21-108. Refunds.** (3) (a) (III) Any moneys withheld for payment of a child support debt or child support arrearages pursuant to this subsection (3) shall be

deposited ~~monthly with the state treasurer~~ IN THE FAMILY SUPPORT REGISTRY CREATED PURSUANT TO SECTION 26-13-114, C.R.S., for disbursement by the department of human services. For all names and amounts certified by the department of human services pursuant to section 26-13-111, C.R.S., the executive director of the department of revenue shall provide to the department of human services the taxpayers' names and associated amounts deposited with the state treasurer and any other identifying information as required by the department of human services.

(IV) Any moneys withheld for payment of an institution of higher education debt pursuant to this subsection (3) shall be deposited with the state treasurer for disbursement by the state treasurer to the appropriate institution. For ~~all names and amounts~~ EACH PERSON WHOSE NAME AND AMOUNT IS certified by the appropriate institution pursuant to section 23-5-115, C.R.S., the executive director of the department of revenue shall provide to the appropriate institution the ~~taxpayers' names and associated amounts deposited with the state treasurer~~ NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER, WHICHEVER IS APPLICABLE, OF THE TAXPAYER WHOSE REFUND IS BEING OFFSET, THE AMOUNT OF THE OFFSET, AND ANY OTHER IDENTIFYING INFORMATION AS REQUIRED BY THE INSTITUTION.

(V) Any moneys withheld for payment of an unpaid debt owing to the state pursuant to this subsection (3) shall be deposited with the state treasurer for disbursement by the controller. For ~~all names and amounts~~ EACH PERSON WHOSE NAME AND AMOUNT IS certified by the controller pursuant to section 24-30-202.4, C.R.S., the executive director of the department of revenue shall provide to the controller the ~~taxpayers' names and associated amounts deposited with the state treasurer~~ NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER, WHICHEVER IS APPLICABLE, OF THE TAXPAYER WHOSE REFUND IS BEING OFFSET, THE AMOUNT OF THE OFFSET, AND ANY OTHER IDENTIFYING INFORMATION AS REQUIRED BY THE CONTROLLER.

(VI) Any moneys withheld for payment of a student loan division debt pursuant to this subsection (3) shall be deposited with the state treasurer for disbursement by the state treasurer to the division. For ~~all names and amounts~~ EACH PERSON WHOSE NAME AND AMOUNT IS certified by the division pursuant to section 23-3.1-104 (1) (p), C.R.S., the executive director of the department of revenue shall provide to the division the ~~taxpayers' names and associated amounts deposited with the state treasurer~~ NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER, WHICHEVER IS APPLICABLE, OF THE TAXPAYER WHOSE REFUND IS BEING OFFSET, THE AMOUNT OF THE OFFSET, AND ANY OTHER IDENTIFYING INFORMATION AS REQUIRED BY THE DIVISION.

**SECTION 15.** 39-21-113, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**39-21-113. Reports and returns - repeal.** (21) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL PROVIDE INFORMATION TO OTHER STATE AGENCIES AS REQUIRED PURSUANT TO SECTION 39-21-108 (3).

**SECTION 16. Act subject to petition - effective date.** (1) This act shall take effect September 1, 2009.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

Approved: May 21, 2009