

# An Act

HOUSE BILL 19-1128

BY REPRESENTATIVE(S) Kraft-Tharp and Saine, Michaelson Jenet, Esgar, Hansen, Snyder, Titone, Becker;  
also SENATOR(S) Fields and Smallwood, Todd, Court, Crowder, Moreno, Tate.

CONCERNING INTERCEPTS, AND, IN CONNECTION THEREWITH, INTERCEPTING  
LOTTERY WINNINGS TO PAY OUTSTANDING COURT OBLIGATIONS.

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

**SECTION 1.** In Colorado Revised Statutes, 16-11-101.8, **amend** (1) introductory portion, (1)(c), and (4) as follows:

**16-11-101.8. State income tax refund and lottery winnings offsets - fines, fees, costs, or surcharges - definitions.** (1) In any case in which a defendant has an unsatisfied fine, fee, cost, or surcharge obligation imposed pursuant to law or a court order, the judicial department is authorized to transmit data concerning the obligation to the department of revenue for the purpose of conducting a data match and offsetting the obligation against a state income tax refund pursuant to section 39-21-108 (3) ~~C.R.S.~~ OR LOTTERY WINNINGS PURSUANT TO SECTION 44-40-114. For any obligation identified by the judicial department for offset, the state court

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

administrator shall:

(c) Provide or require the appropriate court to provide written notice to the defendant that the state intends to offset the defendant's obligation against his or her state income tax refund OR LOTTERY WINNINGS and that the defendant has the right to object to the offset and request an administrative review; and

(4) The department of revenue is authorized to receive data from the judicial department and execute offsets of state income tax refunds AND LOTTERY WINNINGS in accordance with this section and ~~section 39-21-108 (3), C.R.S.~~ SECTIONS 39-21-108 (3) AND 44-40-114.

**SECTION 2.** In Colorado Revised Statutes, 16-18.5-106.5, **amend** (5) as follows:

**16-18.5-106.5. Lottery winnings offset - restitution.** (5) If a lottery winner owes restitution in a criminal or juvenile case and also owes a child support debt or arrearages as described in section 26-13-118 (1), the lottery winnings offset described in sections 26-13-118 and 44-40-113 (6), shall take priority and be applied first. Any remaining lottery winnings shall be disbursed and distributed in accordance with this section, SECTION 44-40-113, AND SECTION 44-40-114.

**SECTION 3.** In Colorado Revised Statutes, 44-40-113, **amend** (6)(e)(I) as follows:

**44-40-113. Prizes.** (6) (e) (I) Notwithstanding any provision of this subsection (6) to the contrary, if, in addition to owing an outstanding debt, a lottery winner owes ~~either~~ restitution, FINES, FEES, COSTS, OR SURCHARGES, as described in section 44-40-114 or a child support debt or arrearages or child support costs as described in this subsection (6), any lottery winnings offset against the restitution, FINES, FEES, COSTS, OR SURCHARGES, or child support debt or arrearages or child support costs shall take priority and be applied first. If, in such instance, the lottery winner owes ~~both~~ THESE types of debts, ~~both~~ THESE offsets shall take priority and the provisions of section 44-40-114 (3) shall apply.

**SECTION 4.** In Colorado Revised Statutes, **amend** 44-40-114 as follows:

**44-40-114. Prizes - lottery winnings offset for restitution, fines, fees, costs, or surcharges.** (1) Prior to the payment of any lottery winnings required by rule of the commission to be paid only at the lottery offices, the department shall require the winner to submit the winner's social security number and federal employer identification number, if applicable, and shall check the social security number of the winner with those certified by the judicial department for the purpose of the state lottery winnings offset as provided in ~~section 16-18.5-106.5~~ SECTIONS 16-11-101.8 AND 16-18.5-106.5. The social security number and the federal employer identification number shall not become part of the public record of the department.

(2) If the social security number of a lottery winner appears among those certified by the judicial department, the department shall suspend the payment of the winnings until the requirements of ~~section 16-18.5-106.5~~ SECTIONS 16-11-101.8 AND 16-18.5-106.5 are met. If, after consulting with the judicial department, the department determines that the lottery winner is obligated to pay the amounts certified under ~~section 16-18.5-106.5~~ SECTIONS 16-11-101.8 AND 16-18.5-106.5, then the department shall withhold from the amount of winnings paid to the lottery winner an amount equal to the amount of ~~restitution~~ that is due or, if the amount of winnings is less than or equal to the amount of ~~restitution~~ due, shall withhold the entire amount of the lottery winnings. Any money so withheld shall be transmitted to the state treasurer for disbursement as directed in ~~section 16-18.5-106.5~~ (3) SECTIONS 16-11-101.8 (2) AND 16-18.5-106.5 (3).

(3) If a lottery winner owes a child support debt or arrearages or child support costs as described in section 44-40-113 (6), and also owes restitution, FINES, FEES, COSTS, OR SURCHARGES as described in ~~this section~~ IN SECTIONS 16-11-101.8 AND 16-18.5-106.5, the lottery winnings offset against the child support debt or arrearages or costs shall take priority and be applied first. The remaining lottery winning money, if any, shall be applied SECOND toward the payment of outstanding restitution, AND THEN TOWARD FINES, FEES, COSTS, OR SURCHARGES and processed in accordance with this section.

**SECTION 5. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a

referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.



KC Becker  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES



Leroy M. Garcia  
PRESIDENT OF  
THE SENATE



Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES



Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED

May 20, 2019 at 5:30 p.m.

(Date and Time)



Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO