

CHAPTER 328

SOCIAL SERVICES

SENATE BILL 94-141

BY SENATORS Mares, Casey, Traylor, Bishop, Blickensderfer, Hopper, Mendez, R. Powers, Tebedo, and Wham;
also REPRESENTATIVES Adkins, Blue, DeGette, Eisenach, Fleming, Foster, Friednash, George, Greenwood, Hagedorn, Jerke, Kerns,
Kreutz, Lawrence, Morrison, Nichol, Pierson, Reeser, Rupert, Taylor, and Wright.

AN ACT

CONCERNING CHILD SUPPORT, AND, IN CONNECTION THEREWITH, STRENGTHENING THE PROCEDURES FOR THE ESTABLISHMENT OF PATERNITY AND FOR THE ESTABLISHMENT AND ENFORCEMENT OF CHILD SUPPORT, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 25-2-112 (3) (a) (II), (3) (a) (III), and (3.5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

25-2-112. Certificates of birth - filing - establishment of paternity. (3) (a) If the mother was married either at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child unless:

(II) The mother and the mother's husband execute joint or separate ~~affidavits~~ FORMS PRESCRIBED AND FURNISHED BY THE STATE REGISTRAR reflecting the mother's and the husband's signatures individually ~~notarized~~ WITNESSED and attesting that the husband is not the father of the child, in which case, information about the father shall be omitted from the certificate; or

(III) The mother executes ~~an affidavit~~ A FORM PRESCRIBED AND FURNISHED BY THE STATE REGISTRAR attesting that the husband is not the father and that the putative father is the father, the putative father executes ~~an affidavit~~ A FORM PRESCRIBED AND FURNISHED BY THE STATE REGISTRAR attesting that he is the father, and the husband executes ~~an affidavit~~ A FORM PRESCRIBED AND FURNISHED BY THE STATE REGISTRAR attesting that he is not the father. Such ~~affidavits~~ FORMS may be joint or individual or a combination thereof, and each signature shall be individually ~~notarized~~

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

WITNESSED. In such event, the putative father shall be shown as the father on the certificate.

(3.5) Upon the birth of a child to an unmarried woman in an institution, the person in charge of the institution or that person's designated representative shall provide an opportunity for the child's mother and natural father to complete ~~an affidavit, acknowledging~~ A WRITTEN ACKNOWLEDGMENT OF paternity on the form prescribed and furnished by the state registrar.

SECTION 2. 25-2-112 (3) (a) (IV), Colorado Revised Statutes, 1989 Repl. Vol., as enacted by Senate Bill 94-88, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended to read:

25-2-112. Certificates of birth - filing - establishment of paternity.

(3) (a) (IV) A court of competent jurisdiction has determined the husband is not the presumed father and the putative father executes ~~an affidavit~~ A FORM PRESCRIBED AND FURNISHED BY THE STATE REGISTRAR which is individually ~~notarized~~ WITNESSED attesting that he is the father and the mother executes ~~an affidavit~~ A FORM PRESCRIBED AND FURNISHED BY THE STATE REGISTRAR which is individually ~~notarized~~ WITNESSED that the putative father is the father. In such event the putative father shall be shown as the father on the birth certificate.

SECTION 3. 25-2-112.5 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-2-112.5. Social security account numbers - affidavits acknowledging paternity - to be furnished.

(2) The department of health shall make the birth certificate, the mother's and father's social security account numbers, and ~~the notarized affidavits acknowledging~~ ANY WRITTEN ACKNOWLEDGMENTS OF paternity, INCLUDING ANY NOTARIZED AFFIDAVITS ACKNOWLEDGING PATERNITY AND ANY WITNESSED FORMS PRESCRIBED AND FURNISHED BY THE STATE REGISTRAR, furnished under this section and section 25-2-112 available to the state agency responsible for enforcing child support under Title IV-D of the federal "Social Security Act" upon request of that agency. The social security account numbers shall not be recorded on the birth certificate and may not be used for any purpose other than for the establishment and enforcement of child support orders.

SECTION 4. 26-13-116, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-13-116. Debt information made available to consumer reporting agencies - notice to noncustodial parent - fees - rules and regulations - repeal.

(2.5) (a) THE CHILD SUPPORT ENFORCEMENT AGENCY MAY PROVIDE INFORMATION TO CONSUMER REPORTING AGENCIES REGARDING CHILD SUPPORT OBLIGATIONS IN CASES IN WHICH CHILD SUPPORT DEBT OR CHILD SUPPORT ARREARAGES ARE OWED.

(b) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JULY 1, 1998.

SECTION 5. Article 13 of title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION 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 CUSTODIAN OF THAT CHILD 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:

(a) THE NAME AND ADDRESS OF THE PERSON, INSURANCE COMPANY, OR AGENCY PROVIDING WORKERS' COMPENSATION INSURANCE BENEFITS;

(b) THE NAME, LAST KNOWN ADDRESS, AND SOCIAL SECURITY NUMBER OF THE OBLIGOR;

(c) THE TOTAL AMOUNT OWED FOR CHILD SUPPORT OBLIGATIONS, ARREARAGES FOR CHILD SUPPORT, AND CHILD SUPPORT DEBT;

(d) THE PERCENTAGE OF BENEFITS AND THE ACTUAL AMOUNT TO BE WITHHELD FROM EACH PAYMENT;

(e) A STATEMENT THAT THE NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT IS TO TAKE EFFECT NO LATER THAN THE FIRST PAYMENT AFTER RECEIPT OF THE NOTICE;

(f) A STATEMENT THAT THE PERSON, INSURANCE COMPANY, OR AGENCY PROVIDING WORKERS' COMPENSATION INSURANCE BENEFITS MAY NOT WITHHOLD MORE THAN THE LIMITATIONS SET FORTH IN SECTION 13-54-104 (3), C.R.S.;

(g) 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 (2) OF THIS SECTION SHALL APPLY;

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

(I) SHALL BE FORWARDED TO THE ADDRESS INDICATED ON THE NOTICE;

(II) SHALL BE FORWARDED WITHIN TEN 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 EACH OBLIGOR AND SHALL IDENTIFY THE DATE THE DEDUCTION WAS MADE AND THE AMOUNT OF THE PAYMENT;

(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 ACCOUNT OF EACH DISBURSEMENT IS IDENTIFIED, AS REQUIRED BY SUBPARAGRAPH (III) OF THIS PARAGRAPH (h);

(i) A STATEMENT THAT COMPLIANCE WITH THE NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT SHALL NOT SUBJECT THE PERSON, INSURANCE COMPANY, OR AGENCY PROVIDING WORKERS' COMPENSATION INSURANCE BENEFITS TO LIABILITY TO THE OBLIGOR FOR WRONGFUL WITHHOLDING;

(j) A STATEMENT THAT NONCOMPLIANCE WITH THE NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT MAY SUBJECT THE PERSON OR INSURANCE COMPANY PROVIDING WORKERS' COMPENSATION INSURANCE BENEFITS TO LIABILITY AND SANCTIONS. IF ANY PERSON OR INSURANCE COMPANY PROVIDING WORKERS' COMPENSATION INSURANCE BENEFITS WRONGFULLY FAILS TO DEDUCT AND WITHHOLD BENEFITS IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, IT MAY BE HELD LIABLE FOR AN AMOUNT UP TO THE ACCUMULATED AMOUNT SUCH PERSON OR INSURANCE COMPANY SHOULD HAVE WITHHELD FROM THE OBLIGOR'S BENEFITS.

(k) A STATEMENT THAT, AS LONG AS THE OBLIGOR IS RECEIVING WORKERS' COMPENSATION BENEFITS, THE NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT SHALL NOT BE TERMINATED OR MODIFIED, EXCEPT UPON WRITTEN NOTICE BY THE STATE CHILD SUPPORT ENFORCEMENT AGENCY.

(2) AN ADMINISTRATIVE LIEN AND ATTACHMENT FOR THE COLLECTION FROM WORKERS' COMPENSATION BENEFITS FOR CHILD SUPPORT OBLIGATIONS, CHILD SUPPORT ARREARAGES, AND CHILD SUPPORT DEBT SHALL BE CONTINUING AND SHALL HAVE PRIORITY OVER ANY GARNISHMENT, LIEN, OR WAGE ASSIGNMENT OTHER THAN A NOTICE PREVIOUSLY SERVED PURSUANT TO THIS SUBSECTION (2) OR A WAGE ASSIGNMENT ACTIVATED PURSUANT TO SECTION 14-14-107 OR 14-14-111, C.R.S. SUCH ADMINISTRATIVE LIEN AND ATTACHMENT SHALL REQUIRE THE PERSON, INSURANCE COMPANY, OR AGENCY PROVIDING WORKERS' COMPENSATION INSURANCE BENEFITS TO WITHHOLD, PURSUANT TO SECTION 13-54-104 (3), C.R.S., THE PORTION OF EARNINGS SUBJECT TO ATTACHMENT AT EACH SUCCEEDING DISBURSEMENT INTERVAL UNTIL SUCH AMOUNT IS SATISFIED OR THE ATTACHMENT IS RELEASED IN WRITING BY THE STATE CHILD SUPPORT ENFORCEMENT AGENCY.

(3) IN ORDER TO ATTACH AND COLLECT WORKERS' COMPENSATION INCOME, THE STATE CHILD SUPPORT ENFORCEMENT AGENCY SHALL FILE WITH THE COURT THAT ISSUED THE ORDER A VERIFIED ENTRY OF JUDGMENT PURSUANT TO SECTION 14-10-122 (1) (c), C.R.S., IF ONE HAS NOT BEEN PREVIOUSLY FILED, AND THE STATE CHILD SUPPORT ENFORCEMENT AGENCY IS AUTHORIZED TO SERVE, BY CERTIFIED MAIL, A NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT ON ANY PERSON, INSURANCE COMPANY, OR AGENCY HOLDING WORKERS' COMPENSATION BENEFITS WHICH ARE OWED TO AN OBLIGOR.

(4) AT THE TIME A CLAIM FOR WORKERS' COMPENSATION BENEFITS IS FILED, THE EMPLOYEE SHALL BE NOTIFIED THAT IF A CHILD SUPPORT OBLIGATION IS OWED, BENEFITS MAY BE ATTACHED AND PAYMENT OF THE CHILD SUPPORT OBLIGATION MAY BE WITHHELD AND FORWARDED TO THE OBLIGEE.

(5) FOR PURPOSES OF THIS SECTION, "INSURANCE COMPANY" INCLUDES THE COLORADO COMPENSATION INSURANCE AUTHORITY.

SECTION 6. 8-42-124 (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

8-42-124. Assignability and exemption of claims - payment to employers - when. (6) Nothing in this section shall be construed to limit in any way the right of any employee to full payment of any award which may be granted to said employee for permanent partial or permanent total disability under the provisions of articles 40 to 47 of this title; except that benefits for permanent total disability shall be subject to wage assignment as wages pursuant to section 14-14-102 (9), C.R.S., and subject to garnishment as earnings pursuant to section 13-54.5-101 (2) (b), C.R.S., AND SUBJECT TO ADMINISTRATIVE LIEN AND ATTACHMENT PURSUANT TO SECTION 26-13-122, C.R.S., for purposes of enforcement of court-ordered child support.

SECTION 7. 13-54-104 (1) (b) (II), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

13-54-104. Restrictions on garnishment and levy under execution or attachment. (1) As used in this section, unless the context otherwise requires:

(b) (II) For the purposes of writs of garnishment which are the result of a judgment taken for arrearages for child support or for child support debt, "earnings" also means workers' compensation benefits, UNEMPLOYMENT INSURANCE BENEFITS, and any pension or retirement benefits or payments, including but not limited to those paid pursuant to article 64 of title 22, articles 51, 54, 54.5, and 54.6 of title 24, and article 30 of title 31, C.R.S.

SECTION 8. The introductory portion to 14-14-107 (7), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-14-107. Wage assignment - applicability. (7) After ten days from the date the advance notice of activation is mailed to the obligor, a wage assignment may be activated by the obligee by causing a notice to the employer or trustee to be served upon the employer or trustee by certified mail, return receipt requested, or in a case where the state department 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 to the employer or trustee confers jurisdiction of the court upon the employer. 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 TO THE EMPLOYER 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 to the employer or trustee shall contain:

SECTION 9. 14-14-111 (4) (a), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-14-111. Immediate deductions for family support obligations - legislative declaration - procedures - applicability. (4) (a) Every order for child support, maintenance, child support when combined with maintenance, child support arrearages, or child support debt shall include the obligor's social security number, date of birth, and the name and address of the obligor's employer or other payor of funds. Upon entry of the order for child support, maintenance, child support when combined with

maintenance, child support arrears, or child support debt, the obligee or the obligee's representative shall mail to the employer or other payor of funds a notice to deduct income for family support obligations by certified mail, return receipt requested. For purposes of this section, "immediate deductions" means the same as a wage assignment as specified in section 14-14-107; except that the deduction from and withholding of income due or to become due is activated immediately upon entry of an order as provided in this section. For the purposes of this section, "notice to deduct income for family support obligations" means a notice to the employer or other payor of funds to deduct and withhold from income due or to become due to the obligor for the purpose of an order for child support, maintenance, child support when combined with maintenance, child support arrears, or child support debt. 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 TO THE EMPLOYER 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.

SECTION 10. Appropriation - adjustment to 1994 long bill. (1) For implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1994, shall be adjusted as follows: The appropriation to the department of human services, assistance payments, aid to families with dependent children, is decreased by one million one hundred seventy-six thousand eight hundred five dollars (\$1,176,805), of which sum, one hundred eighty thousand five hundred twenty-five dollars (\$180,525) shall be from the general fund, seven hundred twenty-four thousand eight hundred fourteen dollars (\$724,814) shall be from federal funds, and two hundred seventy-one thousand four hundred sixty-six dollars (\$271,466) shall be from county cash funds.

(2) 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 human services for allocation to the executive director's office, for the fiscal year beginning July 1, 1994, the sum of one hundred eighty-eight thousand one hundred twenty-one dollars (\$188,121) and 3.5 FTE, or so much thereof as may be necessary, for the implementation of this act. Of said sum, sixty-three thousand nine hundred sixty-one dollars (\$63,961) shall be from the general fund and one hundred twenty-four thousand one hundred sixty dollars (\$124,160) shall be from federal funds.

SECTION 11. Effective date. This act shall take effect upon passage; except that: (1) Section 2 of this act shall take effect only if Senate Bill 94-88 is enacted at the Second Regular Session of the Fifty-ninth General Assembly and becomes law; and (2) if Senate Bill 94-88 becomes law before this act, section 2 shall take effect upon passage of this act, or if Senate Bill 94-88 becomes law after this act, section 2 shall take effect upon passage of Senate Bill 94-88.

SECTION 12. 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 3, 1994