

CHAPTER 214

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 01-1264

BY REPRESENTATIVE(S) Stafford, Borodkin, Boyd, Groff, Hefley, Jahn, Mace, Madden, Romanoff, Williams S.;
also SENATOR(S) Hagedorn.

AN ACT

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

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

SECTION 1. 8-42-124 (6), Colorado Revised Statutes, 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 AND PERMANENT PARTIAL DISABILITY shall be subject to wage assignment or income 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 2. 8-43-204, Colorado Revised Statutes, is amended to read:

8-43-204. Settlements. (1) An injured employee may settle all or part of any claim for compensation, benefits, penalties, or interest. If such settlement provides by its terms that the employee's claim or award shall not be reopened, such settlement shall not be subject to being reopened under any provisions of articles 40 to 47 of this title other than on the ground of fraud or mutual mistake of material fact.

(2) Such a settlement shall be in writing and shall be signed by a representative of the employer or insurer and signed and sworn to by the injured employee. For claims that have a settlement amount of seventy-five thousand dollars or more, a written

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

notice of the settlement agreement shall be provided to the employer.

(3) The settlement shall be reviewed in person with the injured employee and approved in writing by an administrative law judge or the director of the division prior to the finalization of such settlement. The settlement shall be filed with the division as a part of the injured employee's permanent record.

(4) IF AN EMPLOYEE OWES CHILD SUPPORT AND A GARNISHMENT HAS BEEN FILED PURSUANT TO SECTION 13-54.5-101, C.R.S., OR THE STATE CHILD SUPPORT ENFORCEMENT AGENCY HAS FILED A NOTICE OF ADMINISTRATIVE LIEN AND ATTACHMENT PURSUANT TO SECTION 26-13-122, C.R.S., WITH THE INSURER OR SELF-INSURED EMPLOYER, ALL PROCEEDS OF ANY AWARD, LUMP SUM SETTLEMENT, AND THE INDEMNITY PORTION OF ANY STRUCTURED SETTLEMENT SHALL BE SUBJECT TO SAID GARNISHMENT OR ADMINISTRATIVE LIEN AND ATTACHMENT. PROCEEDS UP TO THE AMOUNT OF THE GARNISHMENT OR ADMINISTRATIVE LIEN AND ATTACHMENT SHALL BE PAID AS DIRECTED ON THE NOTICE TO THE OBLIGEE OR TO THE STATE CHILD SUPPORT ENFORCEMENT AGENCY ON BEHALF OF THE OBLIGEE TO WHOM SUPPORT IS OWED.

SECTION 3. 14-14-102 (4.3), Colorado Revised Statutes, is amended to read:

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

(4.3) "Employer", ~~for purposes of income assignments pursuant to section 14-14-111.5 and for purposes of income withholding pursuant to section 14-5-501,~~ includes any person, company, corporation, the Colorado compensation insurance authority, or OTHER insurance carrier paying ~~amounts as temporary total disability or temporary partial disability~~ ANY TYPE OF workers' compensation benefits pursuant to ~~section 8-42-105, C.R.S., or section 8-42-106, C.R.S., respectively~~ ARTICLES 40 TO 47 OF TITLE 8, C.R.S.

SECTION 4. 14-10-115 (18) (a), Colorado Revised Statutes, is amended, and the said 14-10-115 is further amended BY THE ADDITION OF A NEW SUBSECTION, 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~~ TWENTY-ONE 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;~~ PERSONS TO THE COMMISSION WHO ARE REPRESENTATIVES OF THE JUDICIARY AND THE COLORADO BAR ASSOCIATION. MEMBERS OF THE COMMISSION APPOINTED BY THE GOVERNOR SHALL ALSO INCLUDE 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, THE CHILD SUPPORT LIAISON TO THE JUDICIAL DEPARTMENT, INTERESTED PARTIES, A CERTIFIED PUBLIC ACCOUNTANT, AND PARENT REPRESENTATIVES. IN MAKING HIS OR HER APPOINTMENTS TO THE COMMISSION, THE GOVERNOR SHALL ATTEMPT TO APPOINT PERSONS AS PARENT REPRESENTATIVES OR AS OTHER REPRESENTATIVES ON THE COMMISSION WHO INCLUDE A MALE CUSTODIAL PARENT, A FEMALE CUSTODIAL PARENT, A MALE NONCUSTODIAL PARENT, A FEMALE NONCUSTODIAL PARENT, A JOINT CUSTODIAL PARENT, AND A PARENT IN AN INTACT FAMILY. 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.

(19) THE JUDICIAL DEPARTMENT IS RESPONSIBLE FOR PROMULGATING AND UPDATING THE COLORADO CHILD SUPPORT GUIDELINE FORMS, SCHEDULES, AND INSTRUCTIONS.

SECTION 5. 26-1-114 (3) (a) (I), Colorado Revised Statutes, is amended to read:

26-1-114. Records confidential - authorization to obtain records of assets - release of location information to law enforcement agencies - outstanding felony arrest warrants. (3) (a) (I) Except as provided in subparagraphs (II) and (III) of this paragraph (a), OR EXCEPT AS DISCLOSURE IS OTHERWISE REQUIRED BY STATUTE OR BY RULE OF CIVIL PROCEDURE FOR CHILD SUPPORT ESTABLISHMENT OR ENFORCEMENT PURPOSES, it is unlawful for any person to solicit, disclose, or make use of or to authorize, knowingly permit, participate in, or acquiesce in the use of any lists or names of or any information concerning persons applying for or receiving public assistance and welfare directly or indirectly derived from the records, papers, files, or communications of the state or county departments or subdivisions or agencies thereof or acquired in the course of the performance of official duties. No financial institution or insurance company that provides the data, whether confidential or not, required by the state department, in accordance with the provisions of this subsection (3), shall be liable for the provision of the data to the state department nor for any use made thereof by the state department.

SECTION 6. 26-2-703, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-2-703. Definitions. As used in this part 7, unless the context otherwise requires:

(13.5) "NONCUSTODIAL PARENT", AS DEFINED IN 45 CFR 260.30, MEANS A PERSON WHO:

(a) IS THE PARENT OF A MINOR CHILD RECEIVING ASSISTANCE UNDER THE COLORADO WORKS PROGRAM; AND

(b) LIVES IN COLORADO; AND

(c) DOES NOT LIVE IN THE SAME HOUSEHOLD AS THE MINOR CHILD RECEIVING ASSISTANCE UNDER THE COLORADO WORKS PROGRAM.

SECTION 7. 26-2-706 (1), Colorado Revised Statutes, is amended to read:

26-2-706. Target populations. (1) (a) Subject to the provisions of this section and restrictions in the federal law, any person or family eligible to receive AFDC in Colorado based upon eligibility criteria in effect on July 16, 1996, may receive assistance under the Colorado works program.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), the state board shall promulgate rules to provide that two-parent families shall be treated the same as single-parent families under the provisions of this section.

(c) THE STATE BOARD SHALL PROMULGATE RULES TO PROVIDE THAT A NONCUSTODIAL PARENT MAY BE ALLOWED TO RECEIVE SERVICES UNDER THE COLORADO WORKS PROGRAM, BUT NOT A BASIC ASSISTANCE GRANT, AT A COUNTY'S OPTION AND IN ACCORDANCE WITH THE COUNTY'S PLAN. SUCH SERVICES PROVIDED TO A NONCUSTODIAL PARENT PURSUANT TO THIS PARAGRAPH (c) SHALL BE INTENDED TO PROMOTE THE SUSTAINABLE EMPLOYMENT OF THE NONCUSTODIAL PARENT AND ENABLE SUCH PARENT TO PAY CHILD SUPPORT. PROVISION OF SUCH SERVICES SHALL NOT NEGATIVELY IMPACT THE ELIGIBILITY FOR BENEFITS OR SERVICES OF THE CUSTODIAL PARENT.

SECTION 8. 26-13-115.5, Colorado Revised Statutes, is amended to read:

26-13-115.5. Family support registry fund created. There is hereby created in the state treasury a fund to be known as the family support registry fund, which shall consist of any moneys credited thereto from the investment earnings on moneys deposited with the state treasurer, accruing from collections for child support received by the family support registry, ~~or accruing from miscellaneous sources such as~~ AND ANY undeliverable child support payments. Moneys in the family support registry fund shall be used to reimburse the family support registry for unfunded payments by noncustodial parents or other incidental expenditures associated with the operation of the family support registry. The moneys in the family support registry fund shall not be credited or transferred to the general fund or any other fund of the state; EXCEPT THAT ANY NON-IV-D CHILD SUPPORT PAYMENTS THAT ARE UNDELIVERABLE

AFTER TWO YEARS SHALL BE CONSIDERED UNCLAIMED PROPERTY FOR PURPOSES OF THE "UNCLAIMED PROPERTY ACT" AND SHALL BE REPORTED TO THE ADMINISTRATOR OF THE "UNCLAIMED PROPERTY ACT" FOR PURPOSES OF LOCATING THE PAYEE. CONSISTENT WITH THE REQUIREMENTS FOR CONFIDENTIALITY OF INFORMATION REGARDING CHILD SUPPORT, THE STATE DEPARTMENT SHALL SPECIFY THE AMOUNT OF MONEY THAT IS UNCLAIMED AND PROVIDE SUFFICIENT IDENTIFYING INFORMATION, IF AVAILABLE, TO ALLOW THE ADMINISTRATOR TO LOCATE THE PAYEE.

SECTION 9. Appropriation - adjustments to the 2001 long bill. For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2001, shall be adjusted as follows:

(1) The cash funds exempt appropriation to the department of human services, for the county share of offsetting revenues, is increased by twenty-six thousand seven hundred ninety-six dollars (\$26,796).

(2) The cash funds exempt appropriation to the department of human services, for county incentive payments, is increased by twenty thousand ninety-seven dollars (\$20,097).

(3) The cash funds exempt appropriation to the department of human services, for Colorado works program county block grants is adjusted as follows:

(a) The appropriation from the state's share of cash funds exempt revenues is increased by twenty thousand ninety-seven dollars (\$20,097).

(b) The appropriation from local funds is decreased by twenty thousand ninety-seven dollars (\$20,097).

(4) The letter notation associated with the cash funds exempt appropriation to the department of human services, for Colorado works program county block grants, is adjusted to reflect the fund source changes made in subsection (3) of this section. In addition, the letter notation is adjusted to increase the portion of local funds that is estimated to be from the local share of cash funds exempt revenues by twenty-six thousand seven hundred ninety-six dollars (\$26,796).

SECTION 10. 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: May 31, 2001