

CHAPTER 208

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 06-1266

BY REPRESENTATIVE(S) Larson, Frangas, Berens, Hoppe, Paccione, Romanoff, and Rose;
also SENATOR(S) Veiga, Boyd, and Williams.

AN ACT

CONCERNING THE RECOVERY OF PUBLIC ASSISTANCE PAYMENTS FOR WHICH A JUDGMENT HAS BEEN ISSUED.

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

SECTION 1. 26-2-128 (1) and (2), Colorado Revised Statutes, are amended to read:

26-2-128. Recovery from recipient - estate. (1) If, at any time during the continuance of public assistance, the recipient thereof becomes possessed of any property having a value in excess of that amount set pursuant to the provisions of section 26-2-109 and the rules ~~and regulations~~ of the state department or receives any increase in income, it shall be the duty of the recipient to notify the county department of the possession of such property or receipt of such income, and the county department may ~~after investigation,~~ either terminate the public assistance or alter the amount of assistance payments in accordance with the circumstances and the rules ~~and regulations~~ of the state department. To the extent not otherwise prohibited by state or federal law, if the recipient is found to have committed an intentional program violation, the recipient is disqualified from participation in any public assistance program under this article for ~~six~~ TWELVE months for the first incident, ~~one year~~ TWENTY-FOUR MONTHS for a second incident, and permanently for a third or subsequent incident. Such disqualification is mandatory and is in addition to any other penalty imposed by law. Except as provided in subsections (3) and (4) of this section, any previously paid excess public assistance to which the recipient was not entitled shall be recoverable by the county as a debt due to the state and the county in proportion to the amount of public assistance paid by each respectively; except that any fraudulently obtained public assistance or fraudulently obtained overpayments OF PUBLIC ASSISTANCE shall be recoverable and payable in proportionate shares as provided in section 26-1-112 (2) (b), and interest shall be

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

charged and paid to the county department on any sum fraudulently obtained, calculated at the legal rate and calculated from the date the recipient obtained such sum to the date such sum is recovered. The following remedies apply for the enforcement and collection of a debt for fraudulently obtained public assistance or fraudulently obtained overpayments OF PUBLIC ASSISTANCE:

(a) If the debt for fraudulently obtained public assistance, ~~or~~ fraudulently obtained overpayments OF PUBLIC ASSISTANCE, OR EXCESS PUBLIC ASSISTANCE PAID FOR WHICH THE RECIPIENT WAS INELIGIBLE has been reduced to a judgment in a court of record in this state, the county department may seek a continuing garnishment to collect the debt under article 54.5 of title 13, C.R.S.

(b) If the person has received an overissuance of food stamp ~~coupons~~ BENEFITS resulting from fraud or willful misrepresentation that has not been recovered by repayment under section 13 (b) (1) of the federal "Food Stamp Act", as amended, the state shall recover the overissuance by withholding unemployment compensation to which the person is entitled pursuant to section 8-73-102 (6), C.R.S.

(2) If, upon the death or mental incompetency of any recipient, the inventory of ~~his~~ THE RECIPIENT'S estate shows assets in excess of ~~that~~ THE amount ~~which he~~ THAT THE RECIPIENT was allowed to have in order to receive public assistance, or if it be shown that ~~he~~ THE RECIPIENT was otherwise ineligible for public assistance, then the claim of the county and state for the excess public assistance paid for which the recipient was ineligible, if filed as required by section 15-12-804, C.R.S., shall have priority as a debt given preference under section 15-12-805 ~~(f)~~ (e) (1) (f.7), C.R.S.

SECTION 2. 26-13-125 (2) and (8) (b), Colorado Revised Statutes, are amended to read:

26-13-125. State directory of new hires. (2) The state department, or its agent, shall establish and maintain a state directory of new hires on and after October 1, 1997, for the purpose of locating newly hired individuals for the purposes of establishing, enforcing, or modifying child support obligations AND FOR OTHER PURPOSES SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (8) OF THIS SECTION.

(8) (b) Information contained within the reports shall be made available to the administrators of the following programs for purposes of establishing or verifying eligibility or benefit amounts: Public assistance pursuant to the ~~successor program to aid to families with dependent children funded by the temporary assistance for needy families block grant moneys pursuant to the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193~~ COLORADO WORKS PROGRAM, AS DEFINED IN SECTION 26-2-703 (5); medicaid; food stamps; supplemental security income benefits; cash assistance programs under this title; PUBLIC ASSISTANCE AS DEFINED IN SECTION 26-2-103 (7); and unemployment compensation.

SECTION 3. 13-54.5-101 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13-54.5-101. Definitions. As used in this article, unless the context otherwise

requires:

(2) (d) FOR THE PURPOSES OF WRITS OF GARNISHMENT ISSUED BY A COUNTY DEPARTMENT OF SOCIAL SERVICES RESPONSIBLE FOR ADMINISTERING THE STATE PUBLIC ASSISTANCE PROGRAMS, WHICH WRITS ARE ISSUED AS A RESULT OF A JUDGMENT FOR A DEBT FOR FRAUDULENTLY OBTAINED PUBLIC ASSISTANCE, FRAUDULENTLY OBTAINED OVERPAYMENTS OF PUBLIC ASSISTANCE, OR EXCESS PUBLIC ASSISTANCE PAID FOR WHICH THE RECIPIENT WAS INELIGIBLE, "EARNINGS" SHALL INCLUDE WORKERS' COMPENSATION BENEFITS.

SECTION 4. 13-54-104 (1) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH 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) (IV) FOR THE PURPOSES OF WRITS OF GARNISHMENT ISSUED BY A COUNTY DEPARTMENT OF SOCIAL SERVICES RESPONSIBLE FOR ADMINISTERING THE STATE PUBLIC ASSISTANCE PROGRAMS, WHICH WRITS ARE ISSUED AS A RESULT OF A JUDGMENT FOR A DEBT FOR FRAUDULENTLY OBTAINED PUBLIC ASSISTANCE, FRAUDULENTLY OBTAINED OVERPAYMENTS OF PUBLIC ASSISTANCE, OR EXCESS PUBLIC ASSISTANCE PAID FOR WHICH THE RECIPIENT WAS INELIGIBLE, "EARNINGS" SHALL INCLUDE WORKERS' COMPENSATION BENEFITS.

SECTION 5. 15-12-805 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

15-12-805. Classification of claims. (1) The allowed claims against the estate of a decedent shall be paid by the personal representative in the following order:

(f.7) THE CLAIM OF A COUNTY DEPARTMENT OF SOCIAL SERVICES OR THE STATE DEPARTMENT OF HUMAN SERVICES FOR THE EXCESS PUBLIC ASSISTANCE PAID FOR WHICH THE RECIPIENT WAS INELIGIBLE;

SECTION 6. 8-42-124 (1) and (6), Colorado Revised Statutes, are amended to read:

8-42-124. Assignability and exemption of claims - payment to employers - when. (1) Except for amounts due under court-ordered support OR FOR A JUDGMENT FOR A DEBT FOR FRAUDULENTLY OBTAINED PUBLIC ASSISTANCE, FRAUDULENTLY OBTAINED OVERPAYMENTS OF PUBLIC ASSISTANCE, OR EXCESS PUBLIC ASSISTANCE PAID FOR WHICH THE RECIPIENT WAS INELIGIBLE, claims for compensation or benefits due under articles 40 to 47 of this title shall not be assigned, released, or commuted except as provided in said articles and shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy or recovery or collection of a debt, which exemption may not be waived.

(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 AND SUBJECT TO GARNISHMENT AS EARNINGS PURSUANT TO SECTIONS 13-54-104 (1) (b) (IV) AND 13-54.5-101 (2) (d), C.R.S., FOR PURPOSES OF ENFORCEMENT OF A JUDGMENT FOR A DEBT FOR FRAUDULENTLY OBTAINED PUBLIC ASSISTANCE, FRAUDULENTLY OBTAINED OVERPAYMENTS OF PUBLIC ASSISTANCE, OR EXCESS PUBLIC ASSISTANCE PAID FOR WHICH THE RECIPIENT WAS INELIGIBLE.

SECTION 7. 8-43-204, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

8-43-204. Settlements. (5) IF AN EMPLOYEE OWES A DEBT FOR WHICH A WRIT IS ISSUED AS A RESULT OF A JUDGMENT FOR FRAUDULENTLY OBTAINED PUBLIC ASSISTANCE, FRAUDULENTLY OBTAINED OVERPAYMENTS OF PUBLIC ASSISTANCE, OR EXCESS PUBLIC ASSISTANCE PAID FOR WHICH THE RECIPIENT WAS INELIGIBLE AND A GARNISHMENT HAS BEEN FILED PURSUANT TO SECTION 13-54-104 OR 13-54.5-101, 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 THE GARNISHMENT. PROCEEDS UP TO THE AMOUNT OF THE GARNISHMENT SHALL BE PAID AS DIRECTED BY THE COUNTY DEPARTMENT OF SOCIAL SERVICES RESPONSIBLE FOR ADMINISTERING THE STATE PUBLIC ASSISTANCE PROGRAMS.

SECTION 8. No appropriation - intent. (1) The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

(2) It is the intent of the general assembly that the recovery of public assistance through the garnishment of worker's compensation benefits not be incorporated into the Colorado benefits management system until it is shown to be an effective tool in the recovery of public assistance.

SECTION 9. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-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 (August 9, 2006, if adjournment sine die is on May 10, 2006); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to judgments entered prior to, on, or after the applicable effective date of this act.

Approved: May 17, 2006