

CHAPTER 286

GOVERNMENT - STATE

SENATE BILL 11-051

BY SENATOR(S) Giron, Aguilar, Boyd, Foster, Guzman, Hodge, Morse, Tochtrop, Williams S., Heath;
also REPRESENTATIVE(S) Swerdfeger, Court, Fields, Fischer, Labuda, Pabon, Riesberg, Ryden, Schafer S., Todd, Williams A.

AN ACT

CONCERNING AN INTERCEPT OF A PERSON'S WINNINGS FOR THE PURPOSE OF PAYING AN UNPAID DEBT DUE TO THE STATE, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 24-30-202.4 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-30-202.4. Collection of debts due the state - controller's duties - creation of debt collection fund - definitions. (3) (g) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, FOR THE 2011-12 FISCAL YEAR THE GENERAL ASSEMBLY MAY APPROPRIATE MONEYS IN THE DEBT COLLECTION FUND CREATED IN PARAGRAPH (e) OF THIS SUBSECTION (3) TO THE DEPARTMENT OF REVENUE FOR THE PURPOSE OF MODIFYING THE PROGRAM ADMINISTERED THROUGH THE "GAMBLING PAYMENT INTERCEPT ACT", PART 6 OF ARTICLE 35 OF TITLE 24, TO INCLUDE THE COLLECTION OF UNPAID DEBTS DUE TO THE STATE.

SECTION 2. Part 2 of article 30 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-30-202.7. Lottery winnings offset - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DEBTOR" MEANS A PERSON WHO OWES AN OUTSTANDING DEBT.

(b) "OUTSTANDING DEBT" MEANS ANY UNPAID DEBT DUE TO THE STATE THAT IS REFERRED PURSUANT TO SECTION 24-30-202.4 (2) TO THE STATE CONTROLLER OR THE CENTRAL COLLECTION SERVICES SECTION OF THE DIVISION OF FINANCE AND PROCUREMENT, OR ANY SUCCESSOR SECTION, IN THE DEPARTMENT OF PERSONNEL,

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

INCLUDING THE COLLECTION FEE AND ANY ALLOWABLE FEES AND COSTS PURSUANT TO SECTION 24-30-202.4 (8). "OUTSTANDING DEBT" DOES NOT INCLUDE ANY DEBT COLLECTED BY THE DEPARTMENT OF PERSONNEL FOR A POLITICAL SUBDIVISION OF THE STATE.

(2) BEGINNING JANUARY 1, 2012, THE DEPARTMENT OF PERSONNEL SHALL PERIODICALLY CERTIFY TO THE DEPARTMENT OF REVENUE INFORMATION REGARDING DEBTORS WITH AN OUTSTANDING DEBT. SUCH INFORMATION SHALL INCLUDE THE SOCIAL SECURITY NUMBER OF THE DEBTOR, THE AMOUNT OF THE DEBTOR'S OUTSTANDING DEBT, AND ANY OTHER IDENTIFYING INFORMATION REQUIRED BY THE DEPARTMENT OF REVENUE.

(3) UPON RECEIVING NOTIFICATION FROM THE DEPARTMENT OF REVENUE THAT A LOTTERY CASH PRIZE WINNER APPEARS AMONG THOSE CERTIFIED BY THE DEPARTMENT OF PERSONNEL, THE DEPARTMENT OF REVENUE SHALL NOTIFY THE DEBTOR, IN WRITING, THAT THE STATE INTENDS TO OFFSET THE DEBTOR'S OUTSTANDING DEBT AGAINST THE DEBTOR'S WINNINGS FROM THE STATE LOTTERY. SUCH NOTIFICATION SHALL INCLUDE INFORMATION ON THE DEBTOR'S RIGHT TO OBJECT TO THE OFFSET AND TO REQUEST AN ADMINISTRATIVE REVIEW PURSUANT TO THE RULES OF THE DEPARTMENT OF PERSONNEL.

(4) UPON NOTIFICATION BY THE DEPARTMENT OF REVENUE OF AMOUNTS DEPOSITED WITH THE STATE TREASURER PURSUANT TO SECTION 24-35-212, THE PROCEEDS OF THE OUTSTANDING DEBT COLLECTED SHALL BE ACCOUNTED FOR AND DEPOSITED INTO THE FUND OR FUNDS REQUIRED PURSUANT TO SECTION 24-30-202.4 (3) (d).

(5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL SHALL PROMULGATE RULES PURSUANT TO ARTICLE 4 OF THIS TITLE ESTABLISHING PROCEDURES TO IMPLEMENT THIS SECTION.

SECTION 3. 24-35-212 (5) (a), Colorado Revised Statutes, is amended, and the said 24-35-212 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-35-212. Prizes. (5) (a) Prior to the payment of any lottery cash prize or non-cash prize required by rule and regulation of the commission to be paid only at the lottery offices and subject to state and federal tax reporting, the department of revenue 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 department of human services for the purpose of the state lottery winnings offset as provided in section 26-13-118, C.R.S. FOR A LOTTERY CASH PRIZE, BEGINNING JANUARY 1, 2012, THE DEPARTMENT OF REVENUE SHALL ALSO CHECK THE SOCIAL SECURITY NUMBER OF THE WINNER WITH THOSE CERTIFIED BY THE DEPARTMENT OF PERSONNEL FOR THE PURPOSE OF THE STATE LOTTERY WINNINGS OFFSET AS PROVIDED IN SECTION 24-30-202.7. The social security number and the federal employer identification number shall not become part of the public record of the department of revenue. If the social security number of a lottery winner appears among those certified by the department of human services, the department of revenue shall obtain the current address of the winner, notify the department of human services, and suspend the

payment of the cash prize or non-cash prize until the requirements of section 26-13-118, C.R.S., are met. If, after consulting with the department of human services, the department of revenue determines that the lottery winner owes a child support debt or child support costs pursuant to section 14-14-104, C.R.S., or owes child support arrearages as part of an enforcement action pursuant to article 5 of title 14, C.R.S., or owes child support arrearages or child support costs which are the subject of enforcement services provided pursuant to section 26-13-106, C.R.S., then the department of revenue shall withhold from the amount of the cash prize paid to the lottery winner an amount equal to the amount of child support debt, child support arrearages, and child support costs which are due or, if the amount of the cash prize is less than or equal to the amount of child support debt, arrearages, and costs due, shall withhold the entire amount of the lottery cash prize. Any cash prize so withheld FOR THE DEPARTMENT OF HUMAN SERVICES shall be transmitted to the state treasurer for disbursement by the department of human services as directed in section 26-13-118, C.R.S. IF THE SOCIAL SECURITY NUMBER OF A LOTTERY CASH PRIZE WINNER APPEARS AMONG THOSE CERTIFIED BY THE DEPARTMENT OF PERSONNEL, THE DEPARTMENT OF REVENUE SHALL OBTAIN THE CURRENT ADDRESS OF THE WINNER, NOTIFY THE DEPARTMENT OF PERSONNEL, AND SUSPEND THE PAYMENT OF THE CASH PRIZE UNTIL THE REQUIREMENTS OF SECTION 24-30-202.7 ARE MET. IF, AFTER CONSULTING WITH THE DEPARTMENT OF PERSONNEL, THE DEPARTMENT OF REVENUE DETERMINES THAT THE LOTTERY WINNER OWES AN OUTSTANDING DEBT THAT HAS BEEN CERTIFIED PURSUANT TO SECTION 24-30-202.7, THEN THE DEPARTMENT OF REVENUE SHALL WITHHOLD FROM THE AMOUNT OF THE CASH PRIZE PAID TO THE LOTTERY WINNER AN AMOUNT EQUAL TO THE AMOUNT OF THE OUTSTANDING DEBT OR, IF THE AMOUNT OF THE CASH PRIZE IS LESS THAN OR EQUAL TO THE AMOUNT OF THE OUTSTANDING DEBT, SHALL WITHHOLD THE ENTIRE AMOUNT OF THE LOTTERY CASH PRIZE. ANY CASH PRIZE SO WITHHELD FOR THE DEPARTMENT OF PERSONNEL SHALL BE TRANSMITTED TO THE STATE TREASURER FOR DISBURSEMENT IN ACCORDANCE WITH SECTION 24-30-202.7 (4).

(e) (I) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (5) TO THE CONTRARY, IF, IN ADDITION TO OWING AN OUTSTANDING DEBT, A LOTTERY WINNER OWES EITHER RESTITUTION AS DESCRIBED IN SECTION 24-35-212.5 OR A CHILD SUPPORT DEBT OR ARREARAGES OR CHILD SUPPORT COSTS AS DESCRIBED IN THIS SUBSECTION (5), ANY LOTTERY WINNINGS OFFSET AGAINST SUCH RESTITUTION 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 TYPES OF DEBTS, BOTH OFFSETS SHALL TAKE PRIORITY AND THE PROVISIONS OF SECTION 24-35-212.5 (3) SHALL APPLY.

(II) THE REMAINING LOTTERY WINNING MONEYS, IF ANY, AFTER THE OFFSETS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) SHALL BE APPLIED TOWARD THE PAYMENT OF OUTSTANDING DEBT AND PROCESSED IN ACCORDANCE WITH THIS SECTION.

SECTION 4. 24-35-602 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

(h) AN UNCOLLECTED DEBT TO THE STATE SHOULD BE DEDUCTED FROM A PERSON'S WINNINGS.

SECTION 5. 24-35-603 (2) (a), 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; AND

(III) ANY UNPAID DEBT DUE TO THE STATE THAT IS REFERRED PURSUANT TO SECTION 24-30-202.4 (2) TO THE STATE CONTROLLER OR THE CENTRAL COLLECTION SERVICES SECTION OF THE DIVISION OF FINANCE AND PROCUREMENT, OR ANY SUCCESSOR SECTION, IN THE DEPARTMENT OF PERSONNEL, AND INCLUDING THE COLLECTION FEE AND ANY ALLOWABLE FEES AND COSTS PURSUANT TO SECTION 24-30-202.4 (8). "OUTSTANDING DEBT" DOES NOT INCLUDE ANY DEBT COLLECTED BY THE DEPARTMENT OF PERSONNEL FOR A POLITICAL SUBDIVISION OF THE STATE.

SECTION 6. 24-35-604 (3), Colorado Revised Statutes, is 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. (2.5) ON AND AFTER JANUARY 1, 2012, THE DEPARTMENT OF PERSONNEL SHALL CERTIFY TO THE REGISTRY OPERATOR THE INFORMATION INDICATED IN SUBSECTION (4) OF THIS SECTION REGARDING EACH PERSON WITH AN OUTSTANDING DEBT AS SPECIFIED IN SECTION 24-35-603 (2) (a) (III).

(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, AND THE DEPARTMENT OF PERSONNEL pursuant to subsections (1.5), ~~and~~ (2), AND (2.5) of this section.

SECTION 7. 24-35-605 (2) (b) (IV), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH 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:

(IV) The registry operator shall send to the certifying department 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:

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

SECTION 8. 24-35-607 (2) and (4), Colorado Revised Statutes, are amended to read:

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

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

(4) The executive director of the department of revenue shall promulgate a rule in accordance with article 4 of this title allowing a licensee to retain ~~a portion of a~~ AT LEAST THIRTY DOLLARS OF EACH payment withheld pursuant to this part 6 to cover the licensee's costs of compliance with this part 6, which amount shall be added to the debtor's outstanding debt.

SECTION 9. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the debt collection fund created in section 24-30-202.4 (3) (e), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for allocation to the information technology division, for the fiscal year beginning July 1, 2011, the sum of ninety-four thousand six hundred dollars (\$94,600) cash funds, or so much thereof as may be necessary, for the implementation of this act.

SECTION 10. Act subject to petition - effective date. 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 (August 10, 2011, if adjournment sine die is on May 11, 2011); 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 shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 2, 2011