

First Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 03-1014.01 Jennifer Gilroy

SENATE BILL 03-293

SENATE SPONSORSHIP

Reeves, Owen, and Teck

HOUSE SPONSORSHIP

Witwer, Plant, and Young

Senate Committees

Health, Environment, Welfare & Institutions

House Committees

A BILL FOR AN ACT

101 CONCERNING AUTHORITY FOR COUNTY DEPARTMENTS OF SOCIAL
102 SERVICES TO PROVIDE CHILD SUPPORT COLLECTION SERVICES
103 ON BEHALF OF RECIPIENTS OF CHILD CARE ASSISTANCE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

FY 2003-04 Budget Reduction Bill. Authorizes the county departments of social services to provide child support collection services on behalf of recipients of child care assistance for the recovery of child support debt.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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

2 **SECTION 1.** 14-14-104 (1), (2), (3), (6), and (8), Colorado
3 Revised Statutes, are amended to read:

4 **14-14-104. Recovery for child support debt.** (1) Any payment
5 of public assistance, OR CHILD CARE ASSISTANCE PURSUANT TO PART 8 OF
6 ARTICLE 2 OF TITLE 26, C.R.S., by a county department of social services
7 made to or for the benefit of any dependent child or children creates a
8 debt, which is due and owing to the county department of social services,
9 recoverable by the county as a debt due to the state by the parent or
10 parents who are responsible for support of the dependent child or children
11 in an amount to be determined as follows:

12 (a) Where there has been a court order directed to a parent, the
13 child support debt of that parent shall be an amount equal to the amount
14 of public assistance paid, OR PAYMENTS FOR CHILD CARE ASSISTANCE
15 PURSUANT TO PART 8 OF ARTICLE 2 OF TITLE 26, C.R.S., to the extent of
16 the full amount of arrearages under the order. However, the county
17 department of social services through its delegate child support
18 enforcement unit may petition for modification of the order on the same
19 grounds as a party to the action.

20 (b) Where there has been no court or administrative order for
21 child support, the county department of social services through its
22 delegate child support enforcement unit may initiate a court or
23 administrative action to establish the amount of child support debt
24 accrued, and the court or delegate child support enforcement unit, after
25 hearing or upon stipulation or upon a default order, shall enter an order
26 for child support debt. The debt shall be based on the amount of current
27 child support due, or which would be due if the obligor were an absent

1 parent, under the current child support enforcement guidelines in effect
2 on the date of the stipulation, default order, or hearing to establish the
3 child support debt times the number of months the family received public
4 assistance, OR ANY CHILD CARE ASSISTANCE PAID PURSUANT TO PART 8 OF
5 ARTICLE 2 OF TITLE 26, C.R.S. The total amount of child support debt
6 shall not exceed the total amount paid for public assistance OR CHILD
7 CARE ASSISTANCE. A child support debt established pursuant to this
8 paragraph (b) shall be in addition to any subsequent child support debt
9 accrued pursuant to paragraph (a) of this subsection (1).

10 (2) The county department of social services through its delegate
11 child support enforcement unit shall be subrogated to the right of the
12 dependent child or children or person having legal and physical custody
13 of said child or children or having been allocated decision-making
14 authority with respect to the child or children to pursue any child support
15 action existing under the laws of this state to obtain reimbursement of
16 public assistance OR CHILD CARE ASSISTANCE expended. If a court enters
17 a judgment for or orders the payment of any amount of child support to
18 be paid by an obligor, the county department of social services shall be
19 subrogated to the debt created by such judgment or order.

20 (3) No agreement between any one parent or custodial person or
21 person allocated parental responsibilities and the obligor, either relieving
22 the obligor of any duty of support or responsibility therefor or purporting
23 to settle past, present, or future child support obligations either as
24 settlement or as prepayment, shall act to reduce or terminate any rights
25 of the county department of social services to recover from that obligor
26 for any public assistance OR CHILD CARE ASSISTANCE provided unless the
27 county department of social services through its delegate child support

1 enforcement unit has consented to the agreement, in writing, and such
2 written consent has been incorporated into and made a part of the
3 agreement.

4 (6) Creation of a child support debt under this section shall not
5 modify or extinguish any rights which the county department of social
6 services has obtained or may obtain under an assignment of child support
7 rights, including the right to recover and retain unreimbursed public
8 assistance OR CHILD CARE ASSISTANCE.

9 (8) Notwithstanding rule 98 of the Colorado rules of civil
10 procedure, venue for an action to establish child support debt is proper in
11 any county where public assistance OR CHILD CARE ASSISTANCE was or is
12 being paid, in any county where the obligor parent resides, or in any
13 county where the child resides.

14 **SECTION 2.** 19-6-101 (1) (a), Colorado Revised Statutes, is
15 amended to read:

16 **19-6-101. Initiation of proceedings - support - repayment of**
17 **birth-related debt.** (1) (a) Proceedings to compel parents, or other
18 legally responsible persons, to support a child or children may be
19 commenced by any person filing a verified petition in the court of the
20 county where the child resides or is physically present, or in the county
21 where the obligor parent resides, or in any county where public assistance
22 OR CHILD CARE ASSISTANCE is or was being paid on behalf of the child.

23 **SECTION 3.** 19-6-102, Colorado Revised Statutes, is amended
24 to read:

25 **19-6-102. Venue.** A petition filed under this section shall be
26 brought in the county in which the child resides or is physically present,
27 or in any county where the obligor parent resides, or in any county where

1 public assistance OR CHILD CARE ASSISTANCE is or was being paid on
2 behalf of the child.

3 **SECTION 4.** 26-13-108 (1), Colorado Revised Statutes, is
4 amended to read:

5 **26-13-108. Recovery of public assistance paid for child support**
6 **and maintenance.** (1) Whenever the state department, a county
7 department or its authorized agent, or a district attorney recovers any
8 amounts of support for public assistance recipients, INCLUDING
9 RECIPIENTS OF CHILD CARE ASSISTANCE PAID PURSUANT TO PART 8 OF
10 ARTICLE 2 OF THIS TITLE, such amounts shall be deposited in the county
11 social services fund, and, if such support is used to reimburse public
12 assistance OR CHILD CARE ASSISTANCE paid in accordance with federal
13 law, the federal government shall be entitled to a share in accordance
14 with applicable federal law, the county shall be entitled to a share in
15 accordance with state law, and the state shall be entitled to the remaining
16 share. In addition, the county shall be entitled to a share proportionate to
17 one-half the amount of state funds paid. Costs and expenses reasonably
18 and necessarily incurred by the office of district or county attorney, as
19 contractual agent for a county department, in carrying out the provisions
20 of this article shall be billed to county departments of social services or
21 a county department of social services within the judicial district for the
22 actual cost of services provided. Each county shall make an annual
23 accounting to the state department on all amounts recovered.

24 **SECTION 5.** 26-13.5-102 (3), Colorado Revised Statutes, is
25 amended to read:

26 **26-13.5-102. Definitions.** As used in this article, unless the
27 context otherwise requires:

1 (3) "Child support debt" means, in the case in which there is no
2 existing order for child support, an amount ordered by the court pursuant
3 to section 14-14-104, C.R.S., or by a delegate child support enforcement
4 unit pursuant to this article for unreimbursed public assistance provided
5 to a family that has received or is receiving aid to families with dependent
6 children OR UNREIMBURSED CHILD CARE ASSISTANCE PAID PURSUANT TO
7 PART 8 OF ARTICLE 2 OF THIS TITLE. In the case in which there is an
8 existing court or administrative order for support, "child support debt"
9 means an amount equal to the amount of public assistance OR CHILD CARE
10 ASSISTANCE paid to the extent of the full amount of arrearages which have
11 accrued as of the date of the court or administrative order that determines
12 the child support debt.

13 **SECTION 6.** 26-13.5-109, Colorado Revised Statutes, is
14 amended to read:

15 **26-13.5-109. Notice of financial responsibility - issued in which**
16 **county.** A notice of financial responsibility may be issued by a delegate
17 child support enforcement unit pursuant to this article in any county
18 where public assistance OR CHILD CARE ASSISTANCE was paid, the county
19 where the obligor resides, the county where the obligee resides, or the
20 county where the child resides as prescribed by rule and regulation
21 pursuant to section 26-13.5-113.

22 **SECTION 7.** 26-13.5-112 (1), Colorado Revised Statutes, is
23 amended to read:

24 **26-13.5-112. Modification of an order.** (1) At any time after the
25 entry of an order of financial responsibility or an order of default under
26 this article, in order to add, alter, or delete any provisions to such an
27 order, the delegate child support enforcement unit may issue a notice of

1 financial responsibility to an obligor requesting the modification of an
2 existing administrative order issued pursuant to this article. The delegate
3 child support enforcement unit shall serve the obligor with a notice of
4 financial responsibility by first class mail and shall proceed as set forth
5 in this article. The obligor or the obligee may file a written request for
6 modification of an administrative order issued under this article with the
7 delegate child support enforcement unit by serving the delegate child
8 support enforcement unit by first class mail or in person. If such unit
9 objects to the request for modification based upon the failure to
10 demonstrate a showing of changed circumstances required pursuant to
11 section 14-10-122, C.R.S., the delegate child support enforcement unit
12 shall advise the requesting party of the party's right to request the court
13 to set the matter for a court hearing. The court shall hold a hearing and
14 decide only the issue of modification within ninety days of such request.
15 If the delegate child support enforcement unit does not object to the
16 obligor's or obligee's request for modification, the unit shall serve the
17 obligor with a notice of financial responsibility by first class mail and
18 shall proceed as set forth in this article. Within thirty days of receipt of
19 the request for modification, the delegate child support enforcement unit
20 shall either advise the requesting party of the party's right to request a
21 court hearing or shall issue a notice of financial responsibility. If the
22 child for whom the order applies is no longer in the custody of a person
23 receiving public assistance OR RECEIVING CHILD CARE ASSISTANCE or
24 receiving support enforcement services from the delegate child support
25 enforcement unit pursuant to article 13 of this title, the delegate child
26 support enforcement unit shall certify the matter for hearing to the district
27 court in which the order was filed.

1 **SECTION 8. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.