

An Act

SENATE BILL 12-042

BY SENATOR(S) Spence, Aguilar, Boyd, Guzman, Hudak, Newell, Roberts, Tochtrop, White, Williams S.;
also REPRESENTATIVE(S) Summers, Fields, Hamner, Kerr A., Kerr J., Labuda, Pace, Schafer S., Todd, Williams A., Young.

CONCERNING BRINGING CERTAIN STATUTORY PROVISIONS RELATED TO
CHILD SUPPORT INTO COMPLIANCE WITH FEDERAL LAW.

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

SECTION 1. In Colorado Revised Statutes, 26-13-105, **add** (1.5) as follows:

26-13-105. Child support enforcement services - review.
(1.5) UPON THE REQUEST OF ANOTHER STATE, THE STATE DEPARTMENT OR ITS AGENT IS AUTHORIZED TO PROVIDE THE IDENTIFICATION, THROUGH DATA MATCHES WITH ANY ENTITY WHERE ASSETS MAY BE FOUND, OF ASSETS OWNED BY A PERSON WHO OWES CHILD SUPPORT IN ANOTHER STATE AND TO SEIZE SUCH ASSETS THROUGH LEVY OR OTHER APPROPRIATE PROCESSES.

SECTION 2. In Colorado Revised Statutes, 26-13-128, **amend** (1) and (2) as follows:

26-13-128. Agreements with financial institutions - data match system - limited liability - definitions. (1) The general assembly authorizes the state department, or its agent, to design and implement a program pursuant to ~~which~~ THIS SECTION. The state department, or its agent, ~~shall enter into agreements with~~ AND financial institutions doing business in the state SHALL ENTER INTO AGREEMENTS to effectuate the purpose of this section. The executive director may request and shall receive from such financial institutions or any state entity, such as a department, board, or agency of the state or any of its political subdivisions, the information and action described in this section.

(2) (a) The purpose of the program authorized by this section shall be to develop and operate, in coordination with such financial institutions and state entities, a data match system, using automated data exchanges, to the maximum extent feasible. ~~in which each such financial institution or state entity is required to provide at least semiannually the name, record address, and social security number, or other taxpayer identification number, of any account holder or customer that maintains an account at such institution or entity and who owes past-due child support, as identified by the state by name and social security number or other taxpayer identification number. The state department shall enter into an agreement with each financial institution and state entity, which agreement shall specify a schedule of data matches. The agreement shall provide that the data match be performed by the financial institution within forty-five days after the receipt of the informational electronic or magnetic data. The agreement shall also provide that the data be returned in electronic or magnetic form within three business days after conducting the data match. The financial institution or state entity shall include information concerning all accounts where a data match occurs, including, but not limited to, information regarding joint accounts, partnership accounts, sole proprietorship accounts, custodial accounts, and commercial accounts. The child support enforcement agency shall make a reasonable effort to accommodate those financial institutions upon which the requirements of this section would pose a hardship. The financial institution or entity, in response to a notice of lien or levy from the state department, shall encumber or surrender assets, except for custodial accounts created pursuant to the "Colorado Uniform Transfers to Minors Act", article 50 of title 11, C.R.S., and except for trust accounts of moneys held in trust for a third party, held by such institution or entity on behalf of any obligor parent who is subject to a child support lien, subject to any right of setoff the~~

~~financial institution may have against such assets. Before the financial institution surrenders any assets of the obligor parent to the state department, the financial institution may apply, at the sole discretion of the financial institution, any assets held by the financial institution on behalf of the obligor parent against the balance of any amounts owed by the obligor parent to the financial institution, regardless of whether the obligor parent is in default under any agreement with the financial institution or whether any payments are currently due to the financial institution. Service of a notice of lien or levy pursuant to this subsection (2) shall be made by United States first class mail and, in addition, may be made by United States registered or certified mail, return receipt requested, the cost for which may be withheld by the financial institution or state entity from the account of the obligor parent.~~

(b) THE DATA MATCH REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE CONDUCTED QUARTERLY.

(c) THE STATE DEPARTMENT SHALL PROVIDE TO THE FINANCIAL INSTITUTIONS OR ANY STATE ENTITY THE NAME, RECORD ADDRESS, AND SOCIAL SECURITY NUMBER OF ANY PERSON WHO OWES PAST-DUE CHILD SUPPORT, AS IDENTIFIED BY THE STATE.

(d) THE AGREEMENT REQUIRED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL PROVIDE THAT THE DATA MATCH BE PERFORMED BY THE FINANCIAL INSTITUTION OR STATE ENTITY WITHIN FORTY-FIVE DAYS AFTER THE RECEIPT OF THE INFORMATIONAL ELECTRONIC OR MAGNETIC DATA. THE AGREEMENT SHALL ALSO PROVIDE THAT THE DATA BE RETURNED IN ELECTRONIC OR MAGNETIC FORM WITHIN THREE BUSINESS DAYS AFTER THE MATCH IS CONDUCTED. THE FINANCIAL INSTITUTION OR STATE ENTITY SHALL INCLUDE INFORMATION CONCERNING ALL ACCOUNTS WHERE A DATA MATCH OCCURS, INCLUDING BUT NOT LIMITED TO INFORMATION REGARDING ACCOUNT NUMBERS, ACCOUNT TYPES, JOINT ACCOUNTS, PARTNERSHIP ACCOUNTS, SOLE PROPRIETORSHIP ACCOUNTS, CUSTODIAL ACCOUNTS, AND COMMERCIAL ACCOUNTS. THE CHILD SUPPORT ENFORCEMENT AGENCY SHALL MAKE A REASONABLE EFFORT TO ACCOMMODATE THOSE FINANCIAL INSTITUTIONS UPON WHICH THE REQUIREMENTS OF THIS SUBSECTION (2) WOULD POSE A HARDSHIP.

(e) THE FINANCIAL INSTITUTION OR STATE ENTITY, IN RESPONSE TO A NOTICE OF LIEN OR LEVY FROM THE STATE DEPARTMENT, SHALL

ENCUMBER OR SURRENDER ASSETS, EXCEPT FOR CUSTODIAL ACCOUNTS CREATED PURSUANT TO THE "COLORADO UNIFORM TRANSFERS TO MINORS ACT", ARTICLE 50 OF TITLE 11, C.R.S., FUNDS IN ESCROW AND TRUST ACCOUNTS OF MONEYS HELD IN TRUST FOR A THIRD PARTY, HELD BY SUCH INSTITUTION OR ENTITY ON BEHALF OF ANY OBLIGOR PARENT WHO IS SUBJECT TO A CHILD SUPPORT LIEN, SUBJECT TO ANY RIGHT OF SETOFF THE FINANCIAL INSTITUTION MAY HAVE AGAINST SUCH ASSETS. BEFORE THE FINANCIAL INSTITUTION SURRENDERS ANY ASSETS OF THE OBLIGOR PARENT TO THE STATE DEPARTMENT, THE FINANCIAL INSTITUTION MAY APPLY, AT THE SOLE DISCRETION OF THE FINANCIAL INSTITUTION, ANY ASSETS HELD BY THE FINANCIAL INSTITUTION ON BEHALF OF THE OBLIGOR PARENT AGAINST THE BALANCE OF ANY AMOUNTS OWED BY THE OBLIGOR PARENT TO THE FINANCIAL INSTITUTION, REGARDLESS OF WHETHER THE OBLIGOR PARENT IS IN DEFAULT UNDER ANY AGREEMENT WITH THE FINANCIAL INSTITUTION OR WHETHER ANY PAYMENTS ARE CURRENTLY DUE TO THE FINANCIAL INSTITUTION. SERVICE OF A NOTICE OF LIEN OR LEVY PURSUANT TO THIS SUBSECTION (2) SHALL BE MADE BY UNITED STATES FIRST CLASS MAIL AND, IN ADDITION, MAY BE MADE BY UNITED STATES REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, THE COST FOR WHICH MAY BE WITHHELD BY THE FINANCIAL INSTITUTION OR STATE ENTITY FROM THE ACCOUNT OF THE OBLIGOR PARENT.

SECTION 3. 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.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
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CHIEF CLERK OF THE HOUSE
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APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO