

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 12-0511.01 Jane Ritter x4342

SENATE BILL 12-042

SENATE SPONSORSHIP

Spence,

HOUSE SPONSORSHIP

Summers,

Senate Committees
Judiciary

House Committees
Judiciary

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill authorizes the state department of human services (department) to identify for another state, upon request and through a data match system (system), any assets owned by a person who owes child support in another state. The department is further authorized to seize such assets through levy or other appropriate processes.

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.*

HOUSE
2nd Reading Unam ended
March 2, 2012

SENATE
3rd Reading Unam ended
February 14, 2012

SENATE
2nd Reading Unam ended
February 13, 2012

The department and financial institutions are required to enter into agreements to implement the system. The data match required through the system shall be conducted quarterly.

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

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

4 **26-13-105. Child support enforcement services - review.**
5 (1.5) UPON THE REQUEST OF ANOTHER STATE, THE STATE DEPARTMENT
6 OR ITS AGENT IS AUTHORIZED TO PROVIDE THE IDENTIFICATION, THROUGH
7 DATA MATCHES WITH ANY ENTITY WHERE ASSETS MAY BE FOUND, OF
8 ASSETS OWNED BY A PERSON WHO OWES CHILD SUPPORT IN ANOTHER
9 STATE AND TO SEIZE SUCH ASSETS THROUGH LEVY OR OTHER APPROPRIATE
10 PROCESSES.

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

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

23 (2) (a) The purpose of the program authorized by this section shall
24 be to develop and operate, in coordination with such financial institutions

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

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

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

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

20 (d) THE AGREEMENT REQUIRED PURSUANT TO SUBSECTION (1) OF
21 THIS SECTION SHALL PROVIDE THAT THE DATA MATCH BE PERFORMED BY
22 THE FINANCIAL INSTITUTION OR STATE ENTITY WITHIN FORTY-FIVE DAYS
23 AFTER THE RECEIPT OF THE INFORMATIONAL ELECTRONIC OR MAGNETIC
24 DATA. THE AGREEMENT SHALL ALSO PROVIDE THAT THE DATA BE
25 RETURNED IN ELECTRONIC OR MAGNETIC FORM WITHIN THREE BUSINESS
26 DAYS AFTER THE MATCH IS CONDUCTED. THE FINANCIAL INSTITUTION OR
27 STATE ENTITY SHALL INCLUDE INFORMATION CONCERNING ALL ACCOUNTS

1 WHERE A DATA MATCH OCCURS, INCLUDING BUT NOT LIMITED TO
2 INFORMATION REGARDING ACCOUNT NUMBERS, ACCOUNT TYPES, JOINT
3 ACCOUNTS, PARTNERSHIP ACCOUNTS, SOLE PROPRIETORSHIP ACCOUNTS,
4 CUSTODIAL ACCOUNTS, AND COMMERCIAL ACCOUNTS. THE CHILD SUPPORT
5 ENFORCEMENT AGENCY SHALL MAKE A REASONABLE EFFORT TO
6 ACCOMMODATE THOSE FINANCIAL INSTITUTIONS UPON WHICH THE
7 REQUIREMENTS OF THIS SUBSECTION (2) WOULD POSE A HARDSHIP.

8 (e) THE FINANCIAL INSTITUTION OR STATE ENTITY, IN RESPONSE TO
9 A NOTICE OF LIEN OR LEVY FROM THE STATE DEPARTMENT, SHALL
10 ENCUMBER OR SURRENDER ASSETS, EXCEPT FOR CUSTODIAL ACCOUNTS
11 CREATED PURSUANT TO THE "COLORADO UNIFORM TRANSFERS TO
12 MINORS ACT", ARTICLE 50 OF TITLE 11, C.R.S., FUNDS IN ESCROW AND
13 TRUST ACCOUNTS OF MONEYS HELD IN TRUST FOR A THIRD PARTY, HELD BY
14 SUCH INSTITUTION OR ENTITY ON BEHALF OF ANY OBLIGOR PARENT WHO
15 IS SUBJECT TO A CHILD SUPPORT LIEN, SUBJECT TO ANY RIGHT OF SETOFF
16 THE FINANCIAL INSTITUTION MAY HAVE AGAINST SUCH ASSETS. BEFORE
17 THE FINANCIAL INSTITUTION SURRENDERS ANY ASSETS OF THE OBLIGOR
18 PARENT TO THE STATE DEPARTMENT, THE FINANCIAL INSTITUTION MAY
19 APPLY, AT THE SOLE DISCRETION OF THE FINANCIAL INSTITUTION, ANY
20 ASSETS HELD BY THE FINANCIAL INSTITUTION ON BEHALF OF THE OBLIGOR
21 PARENT AGAINST THE BALANCE OF ANY AMOUNTS OWED BY THE OBLIGOR
22 PARENT TO THE FINANCIAL INSTITUTION, REGARDLESS OF WHETHER THE
23 OBLIGOR PARENT IS IN DEFAULT UNDER ANY AGREEMENT WITH THE
24 FINANCIAL INSTITUTION OR WHETHER ANY PAYMENTS ARE CURRENTLY
25 DUE TO THE FINANCIAL INSTITUTION. SERVICE OF A NOTICE OF LIEN OR
26 LEVY PURSUANT TO THIS SUBSECTION (2) SHALL BE MADE BY UNITED
27 STATES FIRST CLASS MAIL AND, IN ADDITION, MAY BE MADE BY UNITED

1 STATES REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
2 THE COST FOR WHICH MAY BE WITHHELD BY THE FINANCIAL INSTITUTION
3 OR STATE ENTITY FROM THE ACCOUNT OF THE OBLIGOR PARENT.

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