

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0225.01 Bart Miller x2173

HOUSE BILL 15-1056

HOUSE SPONSORSHIP

Coram,

SENATE SPONSORSHIP

Hodge,

House Committees
Business Affairs and Labor
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING DISCLOSURE OF INFORMATION FOR ASSET RECOVERY,
102 AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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 allows a judgment creditor to file a petition in court to compel the department of labor and employment to disclose certain information about a judgment debtor. Judgment creditors must follow federal requirements for protecting any information disclosed and may not share it with other persons. A civil penalty of \$1,000 may be assessed against a judgment creditor who fails to comply with these requirements.

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 (c) COMPLIES WITH REQUIREMENTS OF SUBSECTION (3) OF THIS
2 SECTION.

3 (2) A COURT THAT ENTERS A MONEY JUDGMENT AGAINST AN
4 INDIVIDUAL SHALL, REGARDLESS OF WHETHER THE JUDGMENT CREDITOR
5 HAS EXHAUSTED OTHER REMEDIES, GRANT AN ORDER REQUIRING THE
6 DEPARTMENT TO DISCLOSE THE NAME AND ADDRESS OF THE JUDGMENT
7 DEBTOR'S CURRENT EMPLOYER OR EMPLOYERS IF BOTH OF THE FOLLOWING
8 CONDITIONS ARE MET:

9 (a) THE JUDGMENT CREDITOR FILES A MOTION WITH THE COURT
10 AND, IF SO REQUIRED BY THE COLORADO RULES OF CIVIL PROCEDURE,
11 SERVES A COPY OF THE MOTION ON THE JUDGMENT DEBTOR. THE
12 JUDGMENT DEBTOR MAY OPPOSE THE MOTION ON GROUNDS THAT THE
13 JUDGMENT IS VOID OR EXPIRED.

14 (b) IF THE JUDGMENT DEBTOR OPPOSES THE MOTION, THE COURT
15 HOLDS A HEARING WITHIN FOURTEEN DAYS AFTER THE TIMELY FILING
16 WITH THE COURT AND SERVICE OF THE OBJECTION UPON THE JUDGMENT
17 CREDITOR AND DENIES OR OVERRULES THE OBJECTION.

18 (3) WHEN A COURT ORDER IS GRANTED UNDER SUBSECTION (2) OF
19 THIS SECTION, THE JUDGMENT CREDITOR SHALL:

20 (a) PROVIDE TO THE DEPARTMENT A CERTIFIED COPY OF THE
21 COURT ORDER REQUIRING DISCLOSURE;

22 (b) (I) EXECUTE A USER AGREEMENT AND DATA ACCESS CONTRACT
23 WITH THE DEPARTMENT AND PAY THE APPLICABLE FEE ASSOCIATED WITH
24 THE USER AGREEMENT AND DATA ACCESS CONTRACT.

25 (II) THE DEPARTMENT MAY CHARGE THE JUDGMENT CREDITOR A
26 ONE-TIME INITIATION FEE ATTRIBUTED TO THE EXECUTION OF THE
27 REQUIRED USER AGREEMENT AND DATA ACCESS CONTRACT AS

1 DETERMINED IN RULES ADOPTED BY THE DEPARTMENT UNDER SECTION
2 24-4-103, C.R.S. THE INITIATION FEE MAY NOT EXCEED FIVE HUNDRED
3 DOLLARS.

4 (III) THE DEPARTMENT MAY CHARGE THE JUDGMENT CREDITOR AN
5 ANNUAL RENEWAL FEE ATTRIBUTED TO THE EXECUTION OF THE REQUIRED
6 USER AGREEMENT AND DATA ACCESS CONTRACT AS DETERMINED IN RULES
7 ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103, C.R.S. THE
8 ANNUAL RENEWAL FEE MAY NOT EXCEED TWO HUNDRED DOLLARS.

9 (c) (I) PAY THE DEPARTMENT A REASONABLE FEE THAT REFLECTS
10 THE ACTUAL COST OF PROCESSING THE REQUEST AS DETERMINED IN RULES
11 ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103, C.R.S. THE
12 DEPARTMENT SHALL TRANSFER ALL FEES COLLECTED UNDER THIS
13 SUBSECTION (3) TO THE STATE TREASURER, WHO SHALL CREDIT THE
14 MONEYS TO THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN
15 SECTION 24-1-121, C.R.S.

16 (II) THE FEE PAID UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH
17 (c) MAY BE RECOVERED BY THE JUDGMENT CREDITOR AS A TAXABLE
18 LITIGATION COST.

19 (d) COMPLY WITH THE DATA SAFEGUARD AND SECURITY
20 MEASURES DESCRIBED IN 20 CFR 603.9 WITH RESPECT TO INFORMATION
21 RECEIVED FROM THE DEPARTMENT UNDER THIS SECTION.

22 (4) IF A JUDGMENT CREDITOR COMPLIES WITH SUBSECTION (3) OF
23 THIS SECTION, THE DEPARTMENT SHALL PROVIDE TO THE JUDGMENT
24 CREDITOR THE NAME AND ADDRESS OF THE JUDGMENT DEBTOR'S CURRENT
25 EMPLOYER OR EMPLOYERS WITHIN SEVEN BUSINESS DAYS AFTER
26 RECEIVING THE CERTIFIED COURT ORDER.

27 (5) A JUDGMENT CREDITOR MAY NOT:

1 (a) USE THE INFORMATION OBTAINED UNDER THIS SECTION FOR A
2 PURPOSE OTHER THAN SATISFYING THE JUDGMENT BETWEEN THE
3 JUDGMENT CREDITOR AND THE JUDGMENT DEBTOR; OR

4 (b) SHARE THE INFORMATION WITH ANY OTHER PERSON EXCEPT
5 FOR LAW ENFORCEMENT OFFICIALS, REGULATORS, OR AS OTHERWISE
6 REQUIRED BY LAW OR COURT ORDER.

7 (6) (a) THE DEPARTMENT, WITH JUST CAUSE AND AT ITS OWN
8 EXPENSE, MAY AUDIT A JUDGMENT CREDITOR RECEIVING INFORMATION
9 UNDER THIS SECTION FOR COMPLIANCE WITH THE DATA SAFEGUARD AND
10 SECURITY MEASURES OF 20 CFR 603.9.

11 (b) THE DEPARTMENT MAY PAY THE COSTS ASSOCIATED WITH
12 CONDUCTING AN AUDIT UNDER THIS SUBSECTION (6) ONLY FROM FUNDS IN
13 THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED UNDER SECTION
14 24-1-121 (1.7), C.R.S.

15 (7) (a) IF A JUDGMENT CREDITOR FAILS TO COMPLY WITH THE DATA
16 SAFEGUARD AND SECURITY MEASURES UNDER 20 CFR 603.9, THE
17 JUDGMENT CREDITOR, AFTER A COURT FINDING OF WILLFUL
18 NONCOMPLIANCE, IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE
19 THOUSAND DOLLARS FOR EACH VIOLATION AS FOLLOWS:

20 (I) THE ATTORNEY GENERAL, ON THE ATTORNEY GENERAL'S
21 BEHALF OR ON BEHALF OF THE DEPARTMENT, MAY FILE AN ACTION IN
22 DISTRICT COURT TO SEEK AND ENFORCE THE CIVIL PENALTY; AND

23 (II) THE PREVAILING PARTY IS ENTITLED TO AN AWARD OF ITS
24 REASONABLE ATTORNEY FEES, COURT COSTS, AND INVESTIGATIVE
25 EXPENSES.

26 (b) IF THE JUDGMENT CREDITOR IS FOUND TO BE THE PREVAILING
27 PARTY, ALL FEES, COURT COSTS, AND INVESTIGATIVE EXPENSES REQUIRED

1 TO BE PAID TO THE JUDGMENT CREDITOR MUST BE PAID OUT OF THE
2 JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN SECTION 24-1-121
3 (1.7), C.R.S.

4 (8) WHEN COLLECTING ON ANY DEBT ARISING FROM PAST DUE
5 ORDERS, OBLIGATIONS, FINES, OR FEES DUE TO THE STATE OR ANY
6 POLITICAL SUBDIVISION WITHIN THE STATE, ANY FEES OR COSTS,
7 INCLUDING DESIGNATED CONTRACTUAL COSTS AND FEES, OF THE
8 PRIVATELY RETAINED COUNSEL OR A COLLECTION AGENCY ARE ADDED TO
9 THE AMOUNT DUE AND PLACED FOR COLLECTION, WHETHER OR NOT THE
10 DEBT HAS BEEN REDUCED TO JUDGMENT. EXCLUSIVE OF THE ACCRUAL OF
11 INTEREST AND COURT COSTS, ANY FEES OR COSTS MAY NOT EXCEED
12 TWENTY-FIVE PERCENT OF THE AMOUNT TO BE COLLECTED UNLESS
13 ADDITIONAL REASONABLE ATTORNEY FEES ARE AWARDED BY A COURT OF
14 COMPETENT JURISDICTION.

15 **13-51.3-103. Disposition of civil penalties, attorney fees, court**
16 **costs, and investigative expenses recovered.** THE DEPARTMENT SHALL
17 TRANSMIT ALL CIVIL PENALTIES, ATTORNEY FEES, COURT COSTS, AND
18 INVESTIGATIVE EXPENSES COLLECTED UNDER SECTION 13-51.3-102 TO THE
19 STATE TREASURER, WHO SHALL CREDIT THEM TO THE GENERAL FUND.

20 **SECTION 2.** In Colorado Revised Statutes, 24-1-121, **add** (1.7)
21 as follows:

22 **24-1-121. Department of labor and employment - judgment**
23 **debtor disclosure fund - creation.** (1.7) THERE IS HEREBY CREATED IN
24 THE STATE TREASURY THE JUDGMENT DEBTOR DISCLOSURE FUND. THE
25 FUND CONSISTS OF MONEYS FROM FEES COLLECTED UNDER SECTION
26 13-51.3-103, C.R.S., FOR REQUESTS FOR DISCLOSURE OF CURRENT
27 EMPLOYER INFORMATION ON JUDGMENT DEBTORS. THE MONEYS IN THE

1 FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
2 ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS INCURRED BY THE
3 DEPARTMENT OF LABOR AND EMPLOYMENT IN PROCESSING REQUESTS FOR
4 DISCLOSURE OF CURRENT EMPLOYER INFORMATION ON JUDGMENT
5 DEBTORS UNDER SECTION 13-51.3-102, C.R.S. THE STATE TREASURER
6 SHALL CREDIT ALL INTEREST DERIVED FROM THE DEPOSIT AND
7 INVESTMENT OF MONEYS IN THE FUND TO THE FUND. AT THE END OF ANY
8 FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE
9 FUND REMAIN IN THE FUND AND ARE NOT TRANSFERRED TO THE GENERAL
10 FUND OR ANY OTHER FUND.

11 **SECTION 3. Appropriation.** (1) For the 2015-16 state fiscal
12 year, \$233,358 is appropriated to the department of labor and employment
13 for use by the division of unemployment insurance. This appropriation is
14 from the judgment debtor disclosure fund created in section 24-1-121
15 (1.7), C.R.S., and is based on an assumption that the division will require
16 an additional 4.0 FTE. To implement this act, the division may use this
17 appropriation as follows:

18 (a) \$213,358 and 4.0 FTE for program costs for personal services
19 and operating expenses; and

20 (b) \$20,000 for the purchase of computer center services.

21 (2) For the 2015-16 state fiscal year, \$228,738 is appropriated to
22 the judicial department for use by the trial courts. This appropriation is
23 from the judicial stabilization cash fund created in section 13-32-101 (6),
24 C.R.S., and is based on an assumption that the trial courts will require an
25 additional 3.0 FTE. To implement this act, the trial courts may use this
26 appropriation as follows:

27 (a) \$221,138 and 3.0 FTE for trial court programs for personal

1 services; and

2 (b) \$7,600 for trial court programs for operating expenses.

3 (3) For the 2015-16 state fiscal year, \$70,656 is appropriated to
4 the judicial department. This appropriation is from the judicial
5 stabilization cash fund created in section 13-32-101 (6), C.R.S. To
6 implement this act, the trial courts may use this appropriation for
7 courthouse capital expenses.

8 (4) For the 2015-16 state fiscal year, \$20,000 is appropriated to
9 the governor - lieutenant governor - state planning and budgeting for use
10 by the office of information technology. This appropriation is from
11 reappropriated funds received from the department of labor and
12 employment out of the appropriation made in paragraph (b) of subsection
13 (1) of this section. To implement this act, the office of information
14 technology may use this appropriation for the provision of computer
15 center services for the department of labor and employment.

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