

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-0494.01 Richard Sweetman x4333

**HOUSE BILL 18-1057**

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**HOUSE SPONSORSHIP**

**McKean,**

**SENATE SPONSORSHIP**

**Coram,**

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**House Committees**

Judiciary  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING THE COLLECTION OF DEBTS, AND, IN CONNECTION**  
102         **THEREWITH, REQUIRING THAT CERTAIN INFORMATION ABOUT**  
103         **JUDGMENT DEBTORS BE DISCLOSED TO JUDGMENT CREDITORS**  
104         **THAT OBTAIN A COURT ORDER FOR SUCH DISCLOSURE AND**  
105         **ALLOWING COLLECTION AGENTS TO ADD CERTAIN EXPENSES TO**  
106         **AMOUNTS DUE FOR COLLECTION.**

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**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://leg.colorado.gov>.)*

The bill allows a judgment creditor to file a petition in court to

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

compel the department of labor and employment to disclose certain information about an individual 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.

The bill creates the judgment debtor disclosure fund in the state treasury. The fund consists of money from fees collected for requests for disclosure of current employer information on individual judgment debtors.

The bill allows a collection agency or privately retained attorney collecting on any debt arising from past-due orders, obligations, fines, or fees due to the state, or to any political subdivision within the state, to add to the amount due that has been placed for collection all fees, costs, and costs of collection, including designated contractual costs and attorney fees, regardless of whether the debt has been reduced to judgment.

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

**SECTION 1. Short title.** The short title of this act is the "Asset Recovery Efficiency Act".

4                   **SECTION 2.** In Colorado Revised Statutes, **add** article 51.3 to  
5 title 13 as follows:

## ARTICLE 51.3

## **Disclosure of Information for Asset Recovery**

8                   **13-51.3-101. Definitions.** AS USED IN THIS ARTICLE 51.3, UNLESS  
9                   THE CONTEXT OTHERWISE REQUIRES:

10 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND  
11 EMPLOYMENT.

12 (2) "JUDGMENT CREDITOR" AND "JUDGMENT DEBTOR" HAVE THE  
13 MEANINGS SET FORTH IN SECTION 13-54.5-101.

14                   **13-51.3-102. Disclosure of information for asset recovery -**  
15                   **court order - procedures - restrictions on use of information -**  
16                   **penalties.** (1) THE DEPARTMENT SHALL DISCLOSE TO A JUDGMENT

1 CREDITOR HOLDING A MONEY JUDGMENT AGAINST A JUDGMENT DEBTOR  
2 ONLY THE NAME AND ADDRESS OF THE JUDGMENT DEBTOR'S CURRENT  
3 EMPLOYER, OR EMPLOYERS, IF MORE THAN ONE, AS CONTAINED IN THE  
4 DEPARTMENT'S WAGE AND EMPLOYMENT INFORMATION DATABASE, ONLY  
5 IF:

6 (a) THE JUDGMENT CREDITOR HAS OBTAINED A MONEY JUDGMENT  
7 AGAINST THE JUDGMENT DEBTOR FROM A COURT OF COMPETENT  
8 JURISDICTION;

9 (b) THE JUDGMENT DEBTOR IS AN INDIVIDUAL; AND  
10 (c) THE JUDGMENT CREDITOR OBTAINS A COURT ORDER  
11 REQUIRING THE DISCLOSURE OF INFORMATION IN ACCORDANCE WITH  
12 SUBSECTION (2) OF THIS SECTION.

13 (2) A COURT THAT ENTERS A MONEY JUDGMENT AGAINST AN  
14 INDIVIDUAL SHALL, REGARDLESS OF WHETHER THE JUDGMENT CREDITOR  
15 HAS EXHAUSTED OTHER REMEDIES, GRANT AN ORDER REQUIRING THE  
16 DEPARTMENT TO DISCLOSE THE NAME AND ADDRESS OF THE INDIVIDUAL'S  
17 CURRENT EMPLOYER OR EMPLOYERS IF BOTH OF THE FOLLOWING  
18 CONDITIONS ARE MET:

19 (a) THE JUDGMENT CREDITOR FILES A MOTION WITH THE COURT  
20 AND, IF SO REQUIRED BY THE COLORADO RULES OF CIVIL PROCEDURE,  
21 SERVES A COPY OF THE MOTION ON THE INDIVIDUAL JUDGMENT DEBTOR.  
22 THE INDIVIDUAL JUDGMENT DEBTOR MAY OPPOSE THE MOTION ON  
23 GROUNDS THAT THE JUDGMENT IS VOID OR EXPIRED.

24 (b) IF THE INDIVIDUAL JUDGMENT DEBTOR OPPOSES THE MOTION,  
25 THE COURT SHALL HOLD A HEARING WITHIN FOURTEEN DAYS AFTER THE  
26 TIMELY FILING WITH THE COURT AND SERVICE OF THE OBJECTION UPON  
27 THE JUDGMENT CREDITOR, AND THE COURT SHALL RULE ON THE

1       OBJECTION.

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

4           (a) PROVIDE TO THE DEPARTMENT A COPY OF THE COURT ORDER  
5       REQUIRING DISCLOSURE;

6           (b) EXECUTE A USER AGREEMENT AND DISCLOSURE CONTRACT  
7       WITH THE DEPARTMENT AND PAY THE APPLICABLE FEE ASSOCIATED WITH  
8       THE USER AGREEMENT AND DISCLOSURE CONTRACT;

9           (c) PAY THE DEPARTMENT A REASONABLE FEE THAT REFLECTS THE  
10       ACTUAL COST OF PROCESSING THE REQUEST AS DETERMINED IN RULES  
11       ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103; AND

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

15           (4) (a) THE DEPARTMENT MAY CHARGE THE JUDGMENT CREDITOR  
16       A ONE-TIME INITIATION FEE ATTRIBUTED TO THE EXECUTION OF THE  
17       REQUIRED USER AGREEMENT AND DISCLOSURE CONTRACT AS DETERMINED  
18       IN RULES ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103. THE  
19       INITIATION FEE MAY NOT EXCEED FIVE HUNDRED DOLLARS.

20           (b) THE DEPARTMENT MAY CHARGE THE JUDGMENT CREDITOR AN  
21       ANNUAL RENEWAL FEE ATTRIBUTED TO THE EXECUTION OF THE REQUIRED  
22       USER AGREEMENT AND DISCLOSURE CONTRACT AS DETERMINED IN RULES  
23       ADOPTED BY THE DEPARTMENT UNDER SECTION 24-4-103. THE ANNUAL  
24       RENEWAL FEE MAY NOT EXCEED ONE HUNDRED DOLLARS.

25           (5) THE FEE PAID UNDER SUBSECTION (3)(c) OF THIS SECTION MAY  
26       BE RECOVERED BY THE JUDGMENT CREDITOR AS A TAXABLE LITIGATION  
27       COST.

10 (8) A JUDGMENT CREDITOR MAY NOT:

11 (a) USE THE INFORMATION OBTAINED UNDER THIS SECTION FOR A  
12 PURPOSE OTHER THAN SATISFYING THE JUDGMENT BETWEEN THE  
13 JUDGMENT CREDITOR AND THE INDIVIDUAL JUDGMENT DEBTOR; OR

14 (b) SHARE THE INFORMATION WITH ANY OTHER PERSON EXCEPT AS  
15 PERMITTED BY 20 CFR 603.9 (c).

16 (9) (a) THE DEPARTMENT, WITH JUST CAUSE AND AT ITS OWN  
17 EXPENSE, MAY AUDIT A JUDGMENT CREDITOR WHO RECEIVES  
18 INFORMATION UNDER THIS SECTION FOR COMPLIANCE WITH THE DATA  
19 SAFEGUARD AND SECURITY MEASURES OF 20 CFR 603.9.

20 (b) THE DEPARTMENT MAY PAY THE COSTS ASSOCIATED WITH  
21 CONDUCTING AN AUDIT UNDER THIS SUBSECTION (9) ONLY WITH FUNDS  
22 FROM THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN SECTION  
23 24-1-121 (1.7).

24 (10) (a) (I) IF A JUDGMENT CREDITOR FAILS TO COMPLY WITH THE  
25 DATA SAFEGUARD AND SECURITY MEASURES DESCRIBED IN 20 CFR 603.9,  
26 THE JUDGMENT CREDITOR, AFTER A COURT FINDING OF WILLFUL  
27 NONCOMPLIANCE, IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE

1 THOUSAND DOLLARS FOR EACH VIOLATION.

2 (II) THE ATTORNEY GENERAL, ON THE ATTORNEY GENERAL'S  
3 BEHALF OR ON BEHALF OF THE DEPARTMENT, MAY FILE AN ACTION IN  
4 DISTRICT COURT TO SEEK AND ENFORCE THE CIVIL PENALTY.

5 (III) THE PREVAILING PARTY IS ENTITLED TO AN AWARD OF ITS  
6 REASONABLE ATTORNEY FEES, COURT COSTS, AND INVESTIGATIVE  
7 EXPENSES.

8 (b) IF THE JUDGMENT CREDITOR IS FOUND TO BE THE PREVAILING  
9 PARTY, ALL ATTORNEY FEES, COURT COSTS, AND INVESTIGATIVE EXPENSES  
10 REQUIRED TO BE PAID TO THE JUDGMENT CREDITOR MUST BE PAID OUT OF  
11 THE JUDGMENT DEBTOR DISCLOSURE FUND CREATED IN SECTION 24-1-121  
12 (1.7).

13 (11) A COLLECTION AGENCY OR PRIVATELY RETAINED ATTORNEY  
14 COLLECTING ON ANY DEBT ARISING FROM PAST-DUE ORDERS,  
15 OBLIGATIONS, FINES, OR FEES DUE TO THE STATE, OR DUE TO ANY  
16 POLITICAL SUBDIVISION WITHIN THE STATE, MAY ADD TO THE AMOUNT DUE  
17 THAT HAS BEEN PLACED FOR COLLECTION ALL FEES, COSTS, AND COSTS OF  
18 COLLECTION, INCLUDING DESIGNATED CONTRACTUAL COSTS AND  
19 ATTORNEY FEES. EXCLUSIVE OF THE ACCRUAL OF INTEREST AND COURT  
20 COSTS, ANY FEES OR COSTS MAY NOT EXCEED THE PERCENTAGE PUBLISHED  
21 ANNUALLY BY THE CENTRAL COLLECTION SERVICES SECTION OF THE  
22 DIVISION OF FINANCE AND PROCUREMENT WITHIN THE DEPARTMENT OF  
23 PERSONNEL UNLESS ADDITIONAL REASONABLE ATTORNEY FEES ARE  
24 AWARDED BY A COURT OF COMPETENT JURISDICTION.

25 **13-51.3-103. Disposition of civil penalties, attorney fees, court**  
26 **costs, and investigative expenses recovered.** THE DEPARTMENT SHALL  
27 TRANSMIT ALL CIVIL PENALTIES, ATTORNEY FEES, COURT COSTS, AND

1 INVESTIGATIVE EXPENSES COLLECTED UNDER SECTION 13-51.3-102 TO THE  
2 STATE TREASURER, WHO SHALL CREDIT THEM TO THE GENERAL FUND.

3 **SECTION 3.** In Colorado Revised Statutes, 24-1-121, **add** (1.7)  
4 as follows:

5 **24-1-121. Department of labor and employment - creation -**  
6 **judgment debtor disclosure fund.** (1.7) THERE IS HEREBY CREATED IN  
7 THE STATE TREASURY THE JUDGMENT DEBTOR DISCLOSURE FUND. THE  
8 FUND CONSISTS OF MONEY FROM FEES COLLECTED UNDER SECTION  
9 13-51.3-102 FOR REQUESTS FOR DISCLOSURE OF CURRENT EMPLOYER  
10 INFORMATION ON INDIVIDUAL JUDGMENT DEBTORS. THE MONEY IN THE  
11 FUND IS SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY  
12 FOR THE DIRECT AND INDIRECT COSTS INCURRED BY THE DEPARTMENT OF  
13 LABOR AND EMPLOYMENT IN PROCESSING REQUESTS FOR DISCLOSURE OF  
14 CURRENT EMPLOYER INFORMATION ON JUDGMENT DEBTORS UNDER  
15 SECTION 13-51.3-102 AND PAYMENT TO JUDGMENT CREDITORS UNDER  
16 SECTION 13-51.3-102 (10)(b). THE STATE TREASURER SHALL CREDIT ALL  
17 INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
18 FUND TO THE FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED  
19 AND UNENCUMBERED MONEY IN THE FUND REMAINS IN THE FUND AND IS  
20 NOT TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

21 **SECTION 4. Act subject to petition - effective date.** This act  
22 takes effect January 1, 2019; except that, if a referendum petition is filed  
23 pursuant to section 1 (3) of article V of the state constitution against this  
24 act or an item, section, or part of this act within the ninety-day period  
25 after final adjournment of the general assembly, then the act, item,  
26 section, or part will not take effect unless approved by the people at the  
27 general election to be held in November 2018 and, in such case, will take

1      effect on January 1, 2019, or on the date of the official declaration of the  
2      vote thereon by the governor, whichever is later.