

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0429.01 Yelana Love x2295

HOUSE BILL 17-1162

HOUSE SPONSORSHIP

Gray,

SENATE SPONSORSHIP

(None),

House Committees

Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ACTION THAT CAN BE TAKEN AGAINST AN INDIVIDUAL
102 BASED ON THE INDIVIDUAL'S FAILURE TO PAY FOR A TRAFFIC
103 VIOLATION.

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/>.)

Under current law, an individual who is cited for certain traffic infractions must either pay the penalty assessment or appear in court for a hearing. If the individual neither pays the infraction nor appears for a hearing, the court must issue a judgment against the individual. An individual who has an outstanding judgment:

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.

- ! May have their driver's license canceled;
- ! May not receive a new driver's license; and
- ! May not renew a current driver's license.

The bill repeals these penalties and provides courts with the option of withholding a driver's state income tax refund in order to satisfy the outstanding judgment.

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

2 **SECTION 1.** In Colorado Revised Statutes, 42-2-122, **amend**
3 (1)(h)(I), (1)(h)(II), and (1)(h)(III) as follows:

4 **42-2-122. Department may cancel license - limited license for**
5 **physical or mental limitations.** (1) The department has the authority to
6 cancel, deny, or deny the reissuance of any driver's or minor driver's
7 license upon determining that the licensee was not entitled to the issuance
8 thereof for any of the following reasons:

9 (h) (I) The person has an outstanding ~~judgment~~ or warrant referred
10 to in section 42-4-1709 (7) issued against such person; except that, as
11 used in this ~~paragraph (h), "judgment~~ or SUBSECTION (1)(h), "warrant"
12 ~~shall~~ DOES not include any ~~judgment~~ or warrant reported to the
13 department in violation of section 42-4-110.5 (2)(c).

14 (II) Upon receipt of a ~~judgment~~ or warrant from a court clerk on
15 or after September 1, 2000, the department shall send written notice to the
16 person identified in the court order that such person is required to provide
17 the department with proof that the ~~judgment~~ or warrant is no longer
18 outstanding within thirty days after the date such notice is sent or such
19 person's driver's license shall be canceled or any application for a new
20 license ~~shall~~ MUST be denied. Proof that the ~~judgment~~ or warrant is no
21 longer outstanding shall be in the form of a certificate issued by the clerk
22 of the court ~~entering the judgment~~ or issuing the warrant in a form

1 approved by the executive director OF THE DEPARTMENT.

2 (III) If acceptable proof is not received by the department within
3 thirty days after notice was sent, the department shall cancel the driver's
4 license or deny any application for a license of the person against whom
5 ~~the judgment was entered or the warrant was issued.~~

6 **SECTION 2.** In Colorado Revised Statutes, 42-2-127.5, **amend**
7 (4) as follows:

8 **42-2-127.5. Authority to suspend license - violation of child**
9 **support order.** (4) ~~In the event that~~ IF a driver's license is suspended
10 pursuant to subsection (3) of this section, the department may issue a
11 probationary license for a period not to exceed ninety days from the date
12 of issuance, which probationary license shall restrict the driver to driving
13 to and from the place of employment or to performing duties within the
14 course of the driver's employment. The department is authorized to charge
15 a fee for such probationary license that covers the direct and indirect costs
16 of issuing the license. The department may not issue a probationary
17 license to an individual unless at the time of license restraint such
18 individual has a valid driver's privilege and has no outstanding ~~judgments~~
19 ~~or~~ warrants issued against such individual pursuant to the requirements
20 of section 42-2-118 (3).

21 **SECTION 3.** In Colorado Revised Statutes, 42-4-1709, **repeal**
22 (7)(a)(I), (7)(a)(II), (7)(a)(IV), and (7)(a)(VIII) as follows:

23 **42-4-1709. Penalty assessment notice for traffic infractions -**
24 **violations of provisions by officer - driver's license.** (7) (a) A person
25 shall not be allowed or permitted to obtain or renew a permanent driver's,
26 minor driver's, or probationary license if such person has, at the time of
27 making application for obtaining or renewing such driver's license:

1 (I) ~~An outstanding judgment entered against such person on and~~
2 ~~after January 1, 1983, pursuant to section 42-4-1710 (2) or (3);~~

3 (II) ~~An outstanding judgment entered against such person by a~~
4 ~~county or municipal court for a violation of a statute or ordinance relating~~
5 ~~to the regulation of motor vehicles or traffic, excluding traffic infractions~~
6 ~~defined by state statute or ordinance and violations relating to parking;~~

7 (IV) ~~An outstanding judgment entered against such person by a~~
8 ~~municipal court for a violation of any municipal ordinance which~~
9 ~~occurred when such person was under eighteen years of age, excluding~~
10 ~~traffic infractions defined by state statute or ordinance and violations~~
11 ~~related to parking;~~

12 (VIII) ~~An outstanding judgment entered against such person by a~~
13 ~~county or municipal court for a violation of section 42-4-1416.~~

14 **SECTION 4.** In Colorado Revised Statutes, 42-2-107, **amend** (5)
15 as follows:

16 **42-2-107. Application for license or instruction permit -**
17 **anatomical gifts - donations to Emily Maureen Ellen Keyes organ and**
18 **tissue donation awareness fund - legislative declaration - rules -**
19 **repeal.** (5) (a) (I) Prior to the issuance of a driver's or minor driver's
20 license, the department shall determine if there are any outstanding
21 ~~judgments or warrants~~ entered or issued against the applicant pursuant to
22 section 42-4-1709 (7).

23 (II) For the purposes of this subsection (5), "outstanding
24 ~~judgments or warrants~~" does not include any ~~judgment or warrant~~
25 reported to the department in violation of ~~the provisions of~~ section
26 42-4-110.5 (2)(c).

27 (b) If the department determines that there are no outstanding

1 ~~judgments or~~ warrants entered or issued against the applicant and if all
2 other conditions for issuance required by articles 1 to 4 of this ~~title~~ TITLE
3 42 are met, the department shall issue the license.

4 (c) If the department determines that there are outstanding
5 ~~judgments or~~ warrants entered or issued against the applicant and the
6 applicant is subject to ~~the provisions of~~ section 42-4-1709 (7), the license
7 shall not be issued until the applicant has complied with the requirements
8 of that section. Any person who satisfies an outstanding ~~judgment or~~
9 warrant entered pursuant to section 42-4-1709 (7) shall pay to the court
10 a thirty-dollar administrative processing fee for each such ~~judgment or~~
11 warrant in addition to all other penalties, costs, or forfeitures. The court
12 shall remit fifty percent of the administrative processing fee to the
13 department, ~~of revenue~~, and the other fifty percent shall be retained by the
14 issuing court.

15 **SECTION 5.** In Colorado Revised Statutes, 42-2-118, **amend**
16 (3)(a), (3)(b), and (3)(c) as follows:

17 **42-2-118. Renewal of license in person or by mail - donations**
18 **to Emily Maureen Ellen Keyes organ and tissue donation awareness**
19 **fund - repeal.** (3) (a) (I) Prior to the renewal of a permanent driver's
20 license or the issuance or renewal of a probationary license, the
21 department shall determine if the applicant has any outstanding ~~judgments~~
22 ~~or~~ warrants entered or issued against the applicant or if the applicant has
23 issued a check or order to the department for the payment of a penalty
24 assessment and such check or order was returned for insufficient funds or
25 a closed account and remains unpaid as set forth in section 42-4-1709 (7).

26 (II) For the purposes of this subsection (3), "outstanding
27 ~~judgments or~~ warrants" does not include any ~~judgment or~~ warrant

1 reported to the department in violation of ~~the provisions of~~ section
2 42-4-110.5 (2)(c).

3 (b) (I) If there are no outstanding ~~judgments or~~ warrants entered
4 or issued against the applicant and the applicant has not issued a check or
5 order to the department that was returned for insufficient funds or a
6 closed account and that remains unpaid as set forth in section 42-4-1709
7 (7) and if all other conditions for renewal pursuant to articles 1 to 4 of this
8 ~~title~~ TITLE 42 are met, the department shall renew the applicant's
9 permanent driver's license.

10 (II) If there are no outstanding ~~judgments or~~ warrants entered or
11 issued against the applicant and the defendant has not issued a check or
12 order to the department that was returned for insufficient funds or a
13 closed account and that remains unpaid as set forth in section 42-4-1709
14 (7) and if all other conditions for renewal pursuant to articles 1 to 4 of this
15 ~~title~~ TITLE 42 are met, the department may issue or renew the applicant's
16 probationary license.

17 (c) If the department determines that the applicant is subject to the
18 requirements of section 42-4-1709 (7), the permanent driver's license
19 shall not be renewed or the probationary license may not be issued or
20 renewed until ~~such~~ THE applicant has complied with said section. Any
21 person ~~who pays any outstanding judgments,~~ who has any warrants
22 entered or who makes payment for a check or order to the department that
23 had been returned for insufficient funds or a closed account pursuant to
24 section 42-4-1709 (7) shall pay to the court or to the department a
25 thirty-dollar administrative processing cost for each such ~~judgment,~~
26 warrant, check, or order in addition to all other penalties, costs, or
27 forfeitures. If the court collects an administrative processing fee, the court

1 shall remit fifty percent of the administrative processing fee to the
2 department, ~~of revenue~~, and the other fifty percent of that fee is to be
3 retained by the issuing court. If the department collects an administrative
4 processing fee, the department shall retain the fee.

5 **SECTION 6.** In Colorado Revised Statutes, 16-11-101.8, **amend**
6 (1) introductory portion, (1)(a), and (4) as follows:

7 **16-11-101.8. State income tax refund offsets - fines, fees, costs,**
8 **or surcharges - definitions.** (1) In any case in which a defendant has an
9 unsatisfied fine, fee, cost, or surcharge obligation imposed pursuant to
10 law or a court order, the judicial department ~~is~~ AND MUNICIPAL COURTS
11 ARE authorized to transmit data concerning the obligation to the
12 department of revenue for the purpose of conducting a data match and
13 offsetting the obligation against a state income tax refund pursuant to
14 section 39-21-108 (3). ~~C.R.S.~~ For any obligation identified by the judicial
15 department OR A MUNICIPAL COURT for offset, the state court
16 administrator shall:

17 (a) On at least an annual basis, certify to the department of
18 revenue the social security number of the defendant who is obligated to
19 pay the obligation and the amount of the outstanding obligation. The
20 department of revenue may request additional identifying information
21 from the judicial department OR A MUNICIPAL COURT that is necessary to
22 obtain an accurate data match.

23 (4) The department of revenue is authorized to receive data from
24 the judicial department OR A MUNICIPAL COURT and execute offsets of
25 state income tax refunds in accordance with this section and section
26 39-21-108 (3). ~~C.R.S.~~

27 **SECTION 7.** In Colorado Revised Statutes, 39-21-108, **amend**

1 (3)(a)(I)(A) and (3)(a)(VIII) as follows:

2 **39-21-108. Refunds.** (3) (a) (I) (A) Whenever it is established
3 that any taxpayer has, for any period open under the statutes, overpaid a
4 tax covered by articles 22 and 26 to 29 of this ~~title~~ TITLE 39, article 60 of
5 title 34, ~~€R.S.~~, and article 3 of title 42, ~~€R.S.~~, and that: There is an
6 unpaid balance of tax and interest accrued, according to the records of the
7 executive director, owing by such taxpayer for any other period; there is
8 an amount required to be repaid to the unemployment compensation fund
9 pursuant to section 8-81-101 (4), ~~€R.S.~~, the amount of which has been
10 determined to be owing as a result of a final agency determination or
11 judicial decision or that has been reduced to judgment by the division of
12 unemployment insurance in the department of labor and employment;
13 there is any unpaid child support debt as set forth in section 14-14-104
14 ~~€R.S.~~, or child support arrearages that are the subject of enforcement
15 services provided pursuant to section 26-13-106, ~~€R.S.~~, as certified by
16 the department of human services; there are any unpaid obligations owing
17 to the state as set forth in section 26-2-133 ~~€R.S.~~, for overpayment of
18 public assistance or medical assistance benefits, the amount of which has
19 been determined to be owing as a result of final agency determination or
20 judicial decision or that has been reduced to judgment, as certified by the
21 department of human services; there is any unpaid loan or other
22 obligation due to a state-supported institution of higher education as set
23 forth in section 23-5-115, ~~€R.S.~~, the amount of which has been
24 determined to be owing as a result of a final agency determination or
25 judicial decision or that has been reduced to judgment, as certified by the
26 appropriate institution; there is any unpaid loan due to the student loan
27 division of the department of higher education as set forth in section

1 23-3.1-104 (1)(p), ~~C.R.S.~~, the amount of which has been determined to
2 be owing as a result of a final agency determination or judicial decision
3 or that has been reduced to judgment, as certified by the division; there
4 is any unpaid loan due to the collegeinvest division of the department of
5 higher education as set forth in section 23-3.1-206, ~~C.R.S.~~, the amount of
6 which has been determined to be owing as a result of a final agency
7 determination or judicial decision or that has been reduced to judgment;
8 there is any outstanding judicial fine, fee, cost, or surcharge as set forth
9 in section 16-11-101.8 ~~C.R.S.~~, or judicial restitution as set forth in section
10 16-18.5-106.8, ~~C.R.S.~~, the amount of which has been determined to be
11 owing as a result of a final judicial department OR MUNICIPAL COURT
12 determination or certified by the judicial department as a judgment owed
13 the state or a victim; there is any unpaid debt owing to the state or any
14 agency thereof by such taxpayer, and that is found to be owing as a result
15 of a final agency determination or the amount of which has been reduced
16 to judgment and as certified by the controller; or the taxpayer is a
17 qualified individual identified pursuant to section 39-22-120 (10) or
18 39-22-2003 (9), so much of the overpayment of tax plus interest
19 allowable thereon as does not exceed the amount of such unpaid balance
20 or unpaid debt must be credited first to the unpaid balance of tax and
21 interest accrued and then to the unpaid debt, and any excess of the
22 overpayment must be refunded. If the taxpayer elects to designate his or
23 her refund as a credit against a subsequent year's tax liability, the amount
24 allowed to be so credited must be reduced first by the unpaid balance of
25 tax and interest accrued and then by the unpaid debt. If the taxpayer filed
26 a joint return, the executive director shall notify the other taxpayer named
27 on the joint return that the portion of the overpayment that is generated by

1 the other taxpayer's income will be refunded upon receipt of a request
2 detailing said amount. As used in this section, unless the context
3 otherwise requires, "agency" includes a state-supported institution of
4 higher education or a political subdivision of the state under contract with
5 central collection services.

6 (VIII) Any ~~moneys~~ MONEY withheld for payment of an obligation
7 certified by the judicial department pursuant to section 16-11-101.8 or
8 16-18.5-106.8 ~~C.R.S.~~, shall be transferred to the judicial department. At
9 the time of the offset, the executive director shall notify the taxpayer of
10 the offset and shall provide to the judicial department OR MUNICIPAL
11 COURT the name, address, and social security number or federal employer
12 identification number, whichever is applicable, of the taxpayer whose
13 refund is being offset, the amount of the offset, and any other identifying
14 information as required by the judicial department OR MUNICIPAL COURT.

15 **SECTION 8. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2018 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.