

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 19-0578.02 Pierce Lively x2059

HOUSE BILL 19-1128

HOUSE SPONSORSHIP

Kraft-Tharp and Saine, Michaelson Jenet

SENATE SPONSORSHIP

Fields and Smallwood, Todd

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING INTERCEPTS, AND, IN CONNECTION THEREWITH,**
102 **INTERCEPTING LOTTERY WINNINGS TO PAY OUTSTANDING**
103 **COURT OBLIGATIONS.**

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/>.)

Legislative Audit Committee. The bill allows lottery winnings to be intercepted for the payment of outstanding criminal court fines, fees, costs, or surcharges.

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.

HOUSE
Amended 2nd Reading
March 8, 2019

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-11-101.8, **amend**
3 (1) introductory portion, (1)(c), and (4) as follows:

4 **16-11-101.8. State income tax refund and lottery winnings**
5 **offsets - fines, fees, costs, or surcharges - definitions.** (1) In any case
6 in which a defendant has an unsatisfied fine, fee, cost, or surcharge
7 obligation imposed pursuant to law or a court order, the judicial
8 department is authorized to transmit data concerning the obligation to the
9 department of revenue for the purpose of conducting a data match and
10 offsetting the obligation against a state income tax refund pursuant to
11 section 39-21-108 (3) ~~C.R.S.~~ OR LOTTERY WINNINGS PURSUANT TO
12 SECTION 44-40-114. For any obligation identified by the judicial
13 department for offset, the state court administrator shall:

14 (c) Provide or require the appropriate court to provide written
15 notice to the defendant that the state intends to offset the defendant's
16 obligation against his or her state income tax refund OR LOTTERY
17 WINNINGS and that the defendant has the right to object to the offset and
18 request an administrative review; and

19 (4) The department of revenue is authorized to receive data from
20 the judicial department and execute offsets of state income tax refunds
21 AND LOTTERY WINNINGS in accordance with this section and ~~section~~
22 ~~39-21-108 (3), C.R.S.~~ SECTIONS 39-21-108 (3) AND 44-40-114.

23 **SECTION 2.** In Colorado Revised Statutes, 16-18.5-106.5,
24 **amend** (5) as follows:

25 **16-18.5-106.5. Lottery winnings offset - restitution.** (5) If a
26 lottery winner owes restitution in a criminal or juvenile case and also
27 owes a child support debt or arrearages as described in section 26-13-118

1 (1), the lottery winnings offset described in sections 26-13-118 and
2 44-40-113 (6), shall take priority and be applied first. Any remaining
3 lottery winnings shall be disbursed and distributed in accordance with this
4 section, SECTION 44-40-113, AND SECTION 44-40-114.

5 **SECTION 3.** In Colorado Revised Statutes, 44-40-113, **amend**
6 (6)(e)(I) as follows:

7 **44-40-113. Prizes.** (6) (e) (I) Notwithstanding any provision of
8 this subsection (6) to the contrary, if, in addition to owing an outstanding
9 debt, a lottery winner owes ~~either~~ restitution, FINES, FEES, COSTS, OR
10 SURCHARGES, as described in section 44-40-114 or a child support debt
11 or arrearages or child support costs as described in this subsection (6), any
12 lottery winnings offset against the restitution, FINES, FEES, COSTS, OR
13 SURCHARGES, or child support debt or arrearages or child support costs
14 shall take priority and be applied first. If, in such instance, the lottery
15 winner owes ~~both~~ THESE types of debts, ~~both~~ THESE offsets shall take
16 priority and the provisions of section 44-40-114 (3) shall apply.

17 **SECTION 4.** In Colorado Revised Statutes, **amend** 44-40-114 as
18 follows:

19 **44-40-114. Prizes - lottery winnings offset for restitution, fines,**
20 **fees, costs, or surcharges.** (1) Prior to the payment of any lottery
21 winnings required by rule of the commission to be paid only at the lottery
22 offices, the department shall require the winner to submit the winner's
23 social security number and federal employer identification number, if
24 applicable, and shall check the social security number of the winner with
25 those certified by the judicial department for the purpose of the state
26 lottery winnings offset as provided in ~~section 16-18.5-106.5~~ SECTIONS
27 16-11-101.8 AND 16-18.5-106.5. The social security number and the

1 federal employer identification number shall not become part of the
2 public record of the department.

3 (2) If the social security number of a lottery winner appears
4 among those certified by the judicial department, the department shall
5 suspend the payment of the winnings until the requirements of ~~section~~
6 ~~16-18.5-106.5~~ SECTIONS 16-11-101.8 AND 16-18.5-106.5 are met. If, after
7 consulting with the judicial department, the department determines that
8 the lottery winner is obligated to pay the amounts certified under ~~section~~
9 ~~16-18.5-106.5~~ SECTIONS 16-11-101.8 AND 16-18.5-106.5, then the
10 department shall withhold from the amount of winnings paid to the lottery
11 winner an amount equal to the amount of ~~restitution~~ that is due or, if the
12 amount of winnings is less than or equal to the amount of ~~restitution~~ due,
13 shall withhold the entire amount of the lottery winnings. Any money so
14 withheld shall be transmitted to the state treasurer for disbursement as
15 directed in ~~section 16-18.5-106.5 (3)~~ SECTIONS 16-11-101.8 (2) AND
16 16-18.5-106.5 (3).

17 (3) If a lottery winner owes a child support debt or arrearages or
18 child support costs as described in section 44-40-113 (6), and also owes
19 restitution, FINES, FEES, COSTS, OR SURCHARGES as described ~~in this~~
20 ~~section~~ IN SECTIONS 16-11-101.8 AND 16-18.5-106.5, the lottery winnings
21 offset against the child support debt or arrearages or costs shall take
22 priority and be applied first. The remaining lottery winning money, if any,
23 shall be applied **SECOND** toward the payment of outstanding restitution,
24 **AND THEN TOWARD** FINES, FEES, COSTS, OR SURCHARGES and processed in
25 accordance with this **section**.

26 **SECTION 5. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August
2 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
3 referendum petition is filed pursuant to section 1 (3) of article V of the
4 state constitution against this act or an item, section, or part of this act
5 within such period, then the act, item, section, or part will not take effect
6 unless approved by the people at the general election to be held in
7 November 2020 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.