

CHAPTER 59

LABOR AND INDUSTRY

SENATE BILL 24-155

BY SENATOR(S) Winter F., Cutter, Danielson, Ginal, Jaquez Lewis, Liston, Michaelson Jenet, Priola, Sullivan;
also REPRESENTATIVE(S) Marvin, Amabile, Bacon, Boesenecker, Brown, Duran, Herod, Jodeh, Joseph, Lindsay, Lindstedt,
Marshall, Parenti, Rutinel, Willford, Woodrow.

AN ACT

CONCERNING ENSURING ACCURATE PAYMENT OF FAMILY AND MEDICAL LEAVE BENEFITS.

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

SECTION 1. In Colorado Revised Statutes, 8-42-124, **amend** (1) and (6); and **add** (9) as follows:

8-42-124. Assignability and exemption of claims - payment to employers - when. (1) Except for amounts due under court-ordered support or for a judgment for a debt for fraudulently obtained public assistance, fraudulently obtained overpayments of public assistance, ~~or~~ excess public assistance paid for which the recipient was ineligible, OR OVERPAYMENT OF PAID FAMILY AND MEDICAL LEAVE BENEFITS PAID PURSUANT TO ARTICLE 13.3 OF THIS TITLE 8, claims for compensation or benefits due, or any proceeds thereof, under articles 40 to 47 of this ~~title~~ TITLE 8 shall not be assigned, released, or commuted except as provided in ~~said articles~~ ARTICLES 40 TO 47 OF THIS TITLE 8 and ~~shall be~~ ARE exempt from all claims of creditors and from levy, execution, and attachment or other remedy or recovery or collection of a debt, which exemption may not be waived.

(6) Nothing in this section ~~shall be construed to limit in any way~~ LIMITS the right of any employee to full payment of any award ~~which~~ THAT may be granted to ~~said~~ THE employee for permanent partial or permanent total disability under the provisions of articles 40 to 47 of this ~~title~~ TITLE 8; except that benefits for permanent total disability and permanent partial disability ~~shall be~~ ARE subject to wage assignment or income assignment as wages pursuant to section 14-14-102 (9), ~~C.R.S., and~~ subject to garnishment as earnings pursuant to section 13-54.5-101 (2)(b), ~~C.R.S., and~~ subject to administrative lien and attachment pursuant to section 26-13-122 ~~C.R.S., for purposes of enforcement of court-ordered child support. and~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

BENEFITS FOR PERMANENT TOTAL DISABILITY AND PERMANENT PARTIAL DISABILITY ARE ALSO subject to garnishment as earnings pursuant to sections 13-54-104 (1)(b)(IV) and 13-54.5-101 (2)(d) C.R.S., for purposes of enforcement of a judgment for a debt for fraudulently obtained public assistance, fraudulently obtained overpayments of public assistance, or excess public assistance paid for which the recipient was ineligible, OR OVERPAYMENT OF PAID FAMILY AND MEDICAL LEAVE BENEFITS PAID PURSUANT TO ARTICLE 13.3 OF THIS TITLE 8.

(9)(a) UPON RECEIVING NOTICE OF A LIEN FROM THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM, CREATED PURSUANT TO SECTION 8-13.3-516, DUE TO PAYMENT OF FAMILY AND MEDICAL LEAVE BENEFITS PURSUANT TO ARTICLE 13.3 OF THIS TITLE 8, SO LONG AS SUCH NOTICE IS PROVIDED PRIOR TO THE PAYMENT OF WORKERS' COMPENSATION TEMPORARY TOTAL DISABILITY OR TEMPORARY PARTIAL DISABILITY BENEFITS IN AN ADMITTED CLAIM, AN INSURER OR A SELF-INSURED EMPLOYER SHALL REIMBURSE THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM FOR CONCURRENTLY PAID OR DUE FAMILY AND MEDICAL LEAVE BENEFITS AND ADMITTED COMPENSATION BY DIVERTING UNPAID BENEFITS FOR TEMPORARY TOTAL DISABILITY OR TEMPORARY PARTIAL DISABILITY TO THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM, IN ACCORDANCE WITH SECTION 8-13.3-513 (2), NOT TO EXCEED ONE HUNDRED PERCENT OF ONGOING WORKERS' COMPENSATION TEMPORARY TOTAL DISABILITY OR TEMPORARY PARTIAL DISABILITY BENEFITS.

(b) THIS SUBSECTION (9) APPLIES ONLY IF THE FAMILY AND MEDICAL LEAVE AND WORKERS' COMPENSATION BENEFITS ARE FOR THE SAME INJURY OR OCCUPATIONAL ILLNESS NEXUS.

SECTION 2. In Colorado Revised Statutes, 8-47-203, **amend** (1) introductory portion and (1)(c)(I) as follows:

8-47-203. Access to files, records, and orders - definition. (1) Notwithstanding the provisions of section 8-47-202, the filing of a claim for compensation is deemed to be a limited waiver of the doctor-patient privilege to persons who are necessary to resolve the claim. The release of mental health records pursuant to this section must comply with section 8-47-203.2. Access to claim files maintained by the division ~~will be~~ ARE permitted only as follows:

(c)(I)(A) The director may permit access to other governmental entities only as required for the performance of their official duties and only if those official duties relate to enforcement of provisions of articles 40 to 47 of this title; ~~except that the department of revenue may access results of any inquiry made by the division to determine whether an employer has any liability pursuant to articles 22 to 29 of title 39, C.R.S. TITLE 8. As used in this subparagraph (I) SUBSECTION (1)(c)(I), "enforcement" includes duties of governmental entities involved in the administration of the provisions of articles 40 to 47 of this title TITLE 8 or if such duties relate to the enforcement of child support under section 26-13-122. C.R.S. This provision SUBSECTION (1)(c)(I)(A) is not intended to restrict the rights of persons otherwise provided for in articles 40 to 47 of this title TITLE 8 to inspect and copy files.~~

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE 8, THE DEPARTMENT OF REVENUE MAY ACCESS RESULTS OF AN INQUIRY MADE BY THE DIVISION TO

DETERMINE WHETHER AN EMPLOYER HAS LIABILITY PURSUANT TO ARTICLES 22 TO 29 OF TITLE 39.

(C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE 8, THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE MAY ACCESS RECORDS REGARDING COMPENSABILITY AND BENEFIT PAYMENTS OF WORKERS' COMPENSATION CLAIMS FOR THE PURPOSES OF COORDINATING THE BENEFITS OF AND OTHERWISE ENFORCING ARTICLE 13.3 OF THIS TITLE 8.

SECTION 3. In Colorado Revised Statutes, 39-21-113, **add** (34) as follows:

39-21-113. Reports and returns - rule - repeal. (34) NOTWITHSTANDING THIS SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY PROVIDE THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE, CREATED IN SECTION 8-13.3-508(1), WITH INFORMATION OBTAINED PURSUANT TO THIS SECTION AND MAY ENTER INTO AN AGREEMENT WITH THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE PROVIDING FOR PAYMENT OF THE COSTS INCURRED IN CONNECTION WITH SUPPLYING THE INFORMATION AND PROVIDING FOR PERIODIC UPDATING OF THE INFORMATION SUPPLIED. INFORMATION SUPPLIED TO THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE PURSUANT TO THIS SUBSECTION (34) IS SUBJECT TO THE RULES OF CONFIDENTIALITY SET FORTH IN SECTION 8-13.3-516 (5) TO THE SAME EXTENT AS INFORMATION SUPPLIED BY AN INDIVIDUAL OR EMPLOYER TO THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE. ALL EMPLOYEES OF THE DIVISION OF FAMILY AND MEDICAL LEAVE INSURANCE ARE SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES SPECIFIED IN SUBSECTION (6) OF THIS SECTION.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 11, 2024