

ARTICLE 33
GAMBLING PAYMENT INTERCEPT ACT

44-33-101. Short title. The short title of this article 33 is the "Gambling Payment Intercept Act".

44-33-102. Legislative declaration.

- (1) The general assembly hereby finds and declares that:
 - (a) Parents should provide financial support to their minor children who cannot care for themselves;
 - (b) The state should intervene when parents fail to meet their support obligations;
 - (c) Children are adversely affected when parents divert their financial support to limited gaming and pari-mutuel wagering;
 - (d) A parent's winnings from money diverted from a child's support should be applied to the parent's outstanding support obligations;
 - (e) Section 44-30-102 (1)(c) of the "Limited Gaming Act of 1991" recognizes that the limited gaming industry must be assisted in protecting the general welfare of the people of the state;
 - (f) Victims of crime and all the people of the state are adversely affected when criminal offenders divert restitution to limited gaming and pari-mutuel wagering;
 - (g) A criminal offender's winnings from money diverted from restitution should be applied to the offender's outstanding criminal court obligations;
 - (h) An uncollected debt to the state should be deducted from a person's winnings.

44-33-103. Definitions. As used in this article 33, unless the context otherwise requires:

- (1) "Licensee" means a licensee as defined in section 44-32-102 (14) or an operator or retail gaming licensee under section 44-30-501 (1)(b) or (1)(c).
- (2) (a) "Outstanding debt" means:
 - (I) Unpaid child support debt or child support costs to the state pursuant to section 14-14-104, and arrearages of child support requested as part of an enforcement action pursuant to article 5 of title 14, or arrearages of child support that are the subject of enforcement services provided pursuant to section 26-13-106;
 - (II) Restitution that a person has been ordered to pay pursuant to section 18-1.3-603 or 19-2-918, regardless of the date that the restitution was ordered; and
 - (III) Any unpaid debt due to the state that is referred pursuant to section 24-30-202.4 (2) to the state controller or the central collection services section of the division of finance and procurement, or any successor section, in the department of personnel, and including the collection fee and any allowable fees and costs pursuant to section 24-30-202.4 (8). "Outstanding debt" does not include any debt collected by the department of personnel for a political subdivision of the state.
- (b) Notwithstanding any provision of subsection (2)(a) of this section, an outstanding debt shall not be less than three hundred dollars.
- (3) "Payment" means cash winnings from limited gaming or from pari-mutuel wagering on horse or greyhound racing payable by a licensee for which the licensee is required to file form W-2G, or a substantially equivalent form, with the United States internal revenue service.
- (4) "Registry" means the registry created and maintained by or for the department pursuant to section 44-33-104.
- (5) "Registry operator" means the department or the private entity that maintains the registry under the direction and control of the department.

44-33-104. Registry - creation - information.

- (1) The department shall create and maintain, or contract with a private entity pursuant to section 44-33-108 to create and maintain, the registry in accordance with this section.
- (2) On and after the date that the judicial department receives notice from the department pursuant to section 44-33-106 (2)(b)(I), the judicial department shall certify to the registry operator the information indicated in subsection (6) of this section regarding persons with an outstanding debt as specified in section 44-33-103 (2)(a)(II).
- (3) The department of human services shall certify to the registry operator the information indicated in subsection (6) of this section regarding each child support obligor with an outstanding debt as specified in section 44-33-103 (2)(a)(I).

(4) On and after January 1, 2012, the department of personnel shall certify to the registry operator the information indicated in subsection (6) of this section regarding each person with an outstanding debt as specified in section 44-33-103 (2)(a)(III).

(5) The registry operator shall enter in the registry the information certified to the registry operator by the judicial department, the department of human services, and the department of personnel pursuant to subsections (2), (3), and (4) of this section.

(6) The registry shall contain the following information:

- (a) The name of each person with an outstanding debt;
- (b) The social security number of each person with an outstanding debt;
- (c) The account or case identifier assigned to the outstanding debt by the department that certified the information to the registry operator;
- (d) The name, telephone number, and address of the department that certified the information to the registry operator regarding each person with an outstanding debt; and
- (e) The amount of the outstanding debt.

(7) On and after the date that the judicial department receives notice from the department pursuant to section 44-33-106 (2)(b)(I), the registry operator shall add a fee of twenty-five dollars to each outstanding debt certified by a department pursuant to this section.

44-33-105. Payments - limited gaming and pari-mutuel wagering licensees - procedures.

(1) On and after July 1, 2008:

- (a) A licensee shall have the means to communicate with the registry operator.
- (b) Before making a payment to a winner, the licensee shall obtain the name, address, and social security number of the winner from form W-2G, or a substantially equivalent form, to be filed with the United States internal revenue service and submit the required information to the registry operator. The registry operator shall inform the licensee whether the winner is listed in the registry. The licensee shall comply with subsection (2) of this section.

(2) (a) If the registry operator replies that the winner is not listed in the registry or if the licensee is unable to receive information from the registry operator after attempting in good faith to do so, the licensee may make the payment to the winner.

(b) If the registry operator replies that the winner is listed in the registry:

(I) The reply from the registry operator to the licensee shall indicate the name, telephone number, and address of the department that certified the information to the registry and the amount of the winner's outstanding debt.

(II) The licensee shall withhold from the amount of the payment an amount equal to the amount certified pursuant to section 44-33-104. If the amount of the payment is less than or equal to the amount certified, the licensee shall withhold the entire amount of the payment. The licensee shall refer the winner to the department that reported the outstanding debt to the registry.

(III) Within twenty-four hours after withholding a payment pursuant to subsection (2)(b)(II) of this section, the licensee shall send the amount withheld to the registry operator and report to the registry operator the full name, address, and social security number of the winner, the account or case identifier assigned by the department that reported the outstanding debt to the registry, the date and amount of the payment, and the name and location of the licensee.

(IV) The registry operator shall send to the certifying department the money and information received from a licensee pursuant to subsection (2)(b)(III) of this section. If more than one department certified a winner, the registry operator shall send the information to each certifying department and distribute the money among the departments as follows:

(A) The registry operator shall send to the department of human services any amount certified by the department of human services.

(B) Of any money remaining after the distribution, if any, to the department of human services pursuant to subsection (2)(b)(IV)(A) of this section, the registry operator shall send to the judicial department any amount certified by the judicial department.

(C) Of any money remaining after the distribution, if any, to the judicial department pursuant to subsection (2)(b)(IV)(B) of this section, the registry operator shall send to the department of personnel any amount certified by the department of personnel.

(V) The department of human services shall process money received from the registry operator pursuant to subsection (2)(b)(IV) of this section in accordance with section 26-13-118.7. The

judicial department shall process money received from the registry operator pursuant to subsection (2)(b)(IV) of this section in accordance with the rules of the department. The department of personnel shall process money received from the registry operator pursuant to subsection (2)(b)(IV) of this section in accordance with the rules of the department of personnel, with the understanding that any state agency or state-supported institution of higher education debt will be paid before any debt for a political subdivision of the state assigned to central collection services.

(3) The registry operator shall deduct an amount equal to the fee added to the outstanding debt pursuant to section 44-33-104 (7) from each payment received from a licensee and forward the amount to the state treasurer for deposit in the gambling payment intercept cash fund created in section 44-33-106.

44-33-106. Gambling payment intercept cash fund - creation - gifts, grants, donations - intercepts for restitution.

(1) There is hereby created in the state treasury the gambling payment intercept cash fund, referred to in this section as the "fund". The fund shall consist of any money deposited in the fund pursuant to section 44-33-105 (3), any allocations made to the fund pursuant to section 24-33.5-506 (1)(c.5)(I), any other money appropriated to the fund by the general assembly, and any gifts, grants, or donations from private or public sources, that the department is hereby authorized to seek and accept for the purposes set forth in this section. All private and public funds received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund. The state treasurer shall also credit to the fund any money that is allocated thereto pursuant to section 24-33.5-506 (1)(c.5)(I).

(2) (a) The money in the fund shall be continuously appropriated to the department for the purpose of expanding the program established by this article 33 to include intercepts of restitution that a person has been ordered to pay pursuant to section 18-1.3-603 or 19-2-918, as certified by the judicial department. As soon as there is sufficient money in the fund, the department shall expand the program for that purpose.

(b) Once the intercept program has been expanded as described in subsection (2)(a) of this section:

(I) The department shall notify the judicial department and the registry operator that the judicial department may begin certifying outstanding debt pursuant to section 44-33-104 (2); and

(II) Money in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the administration of this article 33.

(c) Any money in the fund not expended for the purposes set forth in subsections (2)(a) and (2)(b) of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in the fund shall be credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred or revert to the general fund or any other fund.

44-33-107. Liability - immunity.

(1) A licensee that fails to comply with the provisions of section 44-33-105 shall be subject to sanctions by its licensing authority pursuant to sections 44-30-524 (1) and 44-32-507 (1).

(2) A licensee that makes a payment to a winner in violation of section 44-33-105 shall not be liable to the person to whom the winner owes an outstanding debt.

(3) Except as provided in this section, a licensee shall be immune from civil and criminal liability for acting in compliance with the provisions of this article 33.

44-33-108. Contracting authority - memoranda of understanding - rules.

(1) The executive director may enter into a contract with a private entity, in accordance with the "Procurement Code", articles 101 to 112 of title 24, to create and maintain the registry.

(2) The department may enter into memoranda of understanding with the judicial department, the department of human services, and the department of personnel to implement this article 33. If the registry is operated by a private entity pursuant to this section, the registry operator may enter into memoranda of understanding with the judicial department, the department of human services, and the department of personnel to implement this article 33.

(3) The executive director shall promulgate rules in accordance with article 4 of title 24 to implement this article 33. The rules shall include, but need not be limited to, rules regarding:

(a) The removal from the registry of information regarding persons who satisfy their outstanding debts;

(b) The manner in which a licensee shall communicate with the registry, including the information a licensee shall submit to the registry and the procedures to be followed if the registry is inaccessible due to technical or other problems;

- (c) The protection of the confidentiality of information in the registry; and
 - (d) The circumstances and means by which an outstanding debt may be collected from a licensee pursuant to section 44-33-105 (2)(b)(IV).
- (4) The executive director shall promulgate a rule in accordance with article 4 of title 24 allowing a licensee to retain at least thirty dollars of each payment withheld pursuant to this article 33 to cover the licensee's costs of compliance with this article 33, which amount shall be added to the debtor's outstanding debt.