

# MAINE STATE LEGISLATURE

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## Resolve, Chapter 60 LD 399, of the 124<sup>th</sup> Legislature

### Gambling Intercept Workgroup Report

Prepared by

Maine Department of Health and Human Services

for

The Joint Standing Committee on Judiciary

## 1. Introduction

Pursuant to a Resolve, Chapter 60 LD 399, of the 124<sup>th</sup> Legislature, the Department of Health and Human Services was directed to convene a working group of interested parties to establish a process to collect child support debts through a gambling payment intercept. With the assistance of the Colorado Department of Human Services, Division of Child Support Enforcement, a presentation was developed to illustrate how the process might work. Interested parties were invited to attend a meeting on November 24, 2009 to view the presentation and offer constructive criticism of the proposed process. This report is based upon the discussion at that meeting and subsequent communication between the interested parties and the Department.

## 2. Background

As a child support enforcement agency pursuant to Title IV-D of the Social Security Act, the Division of Support Enforcement and Recovery (DSEER), Office of Integrated Access and Support, Department of Health and Human Services, utilizes a variety of enforcement tools, authorized by both federal and State law, to collect past-due support from a non-custodial parents. DSEER may garnish income from the parent's employer, revoke their driver's license and professional and recreational licenses, attach bank accounts and other financial assets, intercept federal and state tax refunds, intercept lottery winnings, and report arrears to and request information from consumer credit reporting agencies. The proposed gambling payment intercept would complement these existing tools.

### 2.1 Enforcement tools currently available to Department

Following is a brief discussion of some of DSEER's current enforcement tools.

#### Income Withholding

Pursuant to 19-A MRSA § 2359, DSEER may administratively issue an income withholding order to an employer to withhold income of a non-custodial parent if the parent has a liquidated support debt that is at least equal to the support payable for one month. This income withholding order has priority over any other legal process under state law against the same wages.

#### License Revocation

Pursuant to 19-A MRSA §§ 2201 and 2202, DSEER may have a non-custodial parent's driver's license and professional and recreational licenses administratively revoked if the parent is not in compliance with an order of support. A parent is not in compliance with a support order if they are not paying current support, owe past-due support and are not making periodic payments in accordance with a court order or written payment agreement, or are not maintaining health insurance for a child if so ordered.

#### Financial Institution Data Match (FIDM)

Pursuant to 22 MRSA § 17, financial institutions in this State are required, on a quarterly basis, to perform a match of their depositors against a list, provided by DSEER, of the names and social security numbers of persons who owe a liquidated support debt of at least \$500.

### Notification of Workers Compensation Lump Sum Settlements

Pursuant to 19-A MRSA § 2360-A, the Workers Compensation Board must notify DSER of any lump sum settlements, prior to approval, if the settlement is for a person that is on a monthly list, provided by DSER, of persons who owe liquidated child support debts.

### Child Support Lien Network (CSLN)

Pursuant to Rhode Island state law, RIGL 27-57-1. to 4., insurance companies doing business in Rhode Island must intercept insurance claims for past due child support. The Child Support Lien Network (CSLN) implements this requirement through matching of insurance records against a database of delinquent child support obligors and processing of administrative subpoenas and liens. As permitted by federal law, 42 USC § 666(a)(14), Rhode Island has extended participation in CSLN to DSER and other states' IV-D child support enforcement agencies.

### Attachment of financial assets

Pursuant to 19-A MRSA § 2357, a debt for past-due support that has been administratively liquidated by DSER constitutes a lien against all property of the responsible parent. This lien may be perfected against real property by filing in the registry of deeds of any county in which real property of the parent may be found and may be perfected against personal property by filing as a UCC financing statement with the Secretary of State. DSER may also administratively enforce this lien by serving on any person an order to withhold and deliver (19-A MRSA § 2358) any property that is due or belongs to the parent. Such property may include bank accounts (identified through FIDM), insurance proceeds (identified through CSLN), and lump sum Workers Compensation Settlements (reported by the Workers Compensation Board).

### Tax Refund Offset

Pursuant to federal law, 42 USC § 664, federal income tax refunds due non-custodial parents owing past-due support may be intercepted if the debt has been past-due for at least 90 days and (1) the debt is at least \$150 if it has been assigned to the State as the result of payment of public assistance or (2) the debt is at least \$500. Pursuant to State law, 36 MRSA § 5276-A, State income tax refunds due non-custodial parents owing past-due support may be intercepted if the debt has been assigned to the State as the result of the payment of public assistance and is greater than \$25.

### Lottery Winnings Offset

Pursuant to 19-A MRSA § 2360, the Maine State Lottery is required to offset a winner's child support debt against winnings if the person is on a list, provided by DSER, of the names of persons who owe liquidated child support debts.

### Credit Bureau Reporting

Pursuant to 10 MRSA § 1329, DSER may provide information to consumer reporting agencies regarding any person who owes past due support. And, in accordance with the requirements of federal law, 15 USC § 1651b (4), including 10 days advance notice, DSER may request a consumer report of a person who owes past due support.

## 2.2 Other states' gambling intercept laws

Most states do not yet have laws regarding the interception of gambling winnings for child support debt. There appears to be, however, an emerging trend of enactment of such legislation in gaming jurisdictions. Following is a brief discussion of the laws in those states that have enacted gambling intercept laws:

### Colorado

The Colorado Gambling Intercept Act was enacted on May 31, 2007 and took effect on July 1, 2008. This law requires slot, casino, racetrack and OTB licensees to check a registry to determine if a winner has an outstanding child support debt before making any payment that requires the filing of a W-2G (\$600 or \$1,200 depending on the type of wager involved). If there is a match in the registry then the licensee is required to intercept the winnings up to the total amount of the debt reported by the registry and send the intercepted amount to the registry operator who then forwards it to the Division of Child Support Enforcement. To date, Colorado reports that it has intercepted \$702,218 from 480 intercepts with a match rate of 0.34 %.

### Iowa

Iowa enacted legislation on May 15, 2008 authorizing the interception of gambling winnings. The process is similar to that implemented by Colorado except that the threshold amount of winnings that triggers the process is \$10,000 rather than the amount that requires the filing of a W-2G. Iowa reports that, in 2009, it intercepted \$43,117 from 8 intercepts.

### New Jersey

In March 2005, the New Jersey Casino Control Act was amended to require slot system operators to intercept annuity jackpots if the winner is determined to owe a child support debt. As reported in a study in 2007 by the Pennsylvania Gaming Control Board, a spokesperson for the New Jersey Casino Control Commission stated the overwhelming majority of jackpot winners choose a cash payout rather than an annuity payout and the last annuity jackpot reported to the Commission pursuant to this law was in October 2005.

### New Mexico

Pursuant to the New Mexico Gaming Control Board Act and Lottery Act of 1997, a winner of \$1,200 or more must sign a "verification of winnings" form prior to receiving the winnings. The form requires disclosure of whether the winner owes a child support debt. Winnings, however, are paid out regardless of whether a debt is owed. The form is provided to the Child Support Enforcement Division of the Department of Human Services for informational purposes.

### New York

New York Tax Law §1613-a requires lottery prizes and video lottery gaming (VLG) payouts of \$600 or more to be intercepted if the winner owes a child support debt. VLG is part of the New York State Lottery and uses video gaming terminals (VLT), connected to a centralized computer system, to mimic scratch-lottery tickets. Interception of winnings does not take place immediately upon winning a certain amount on the VLT but, instead, occurs when a voucher, generated by the VLT upon completion of gambling, is submitted to a cashier for redemption.

## North Dakota

North Dakota enacted legislation, effective July 1, 2010, that authorizes the interception of gambling winnings. Although, of course, not yet implemented, the process envisioned by this legislation is fundamentally identical to that implemented by Colorado, including the threshold amount of winnings that triggers the process (an amount that requires the filing of a W-2G).

### 2.3 Pennsylvania Gaming Control Board Study

As noted above, in August 2007, the Pennsylvania Gaming Control Board (PGCB) completed a study on the feasibility of implementing a gaming intercept to offset delinquent child support and tax obligations. In its report, the PGCB recognized that there were “clearly social and public benefits to be gained” through implementation of an intercept of gaming winnings but concluded that it was not feasible until a number of challenges were met. One of the most significant challenges identified was one that is unique to Pennsylvania: upgrading Pennsylvania’s child support tracking system “to a more reliable database that is updated in real time” and providing “24 hour support for this system.” Child support enforcement in Pennsylvania, although overseen by a state agency, is primarily performed by county-based agencies that do not currently utilize a centralized computer system. In Maine, of course, support enforcement is performed by a state agency (DSER) utilizing a centralized computer system.

### Proposed gambling intercept process for Maine

The gambling intercept process proposed by DSER is based upon the process implemented in Colorado. DSER selected Colorado’s process as a model based upon reports from Colorado that it is a simple, cost-effective process that imposes a minimal burden on the gaming industry. The process merely requires a gaming industry employee to sign on to an internet application, enter a winner’s name, date of birth, Social Security number, and the amount won. This process typically takes less than a minute to complete. If there is no match then the process is complete and the winner is paid. As noted above, Colorado’s match rate is less than 1% so 99% of the inquiries are completed in a minute or less. If there is a match, the only additional steps added to the process are the printing of a receipt and notice to be given to the winner and, at the end of the business day, processing of an automated payment of the intercepted winnings to the registry operator. A PowerPoint presentation illustrating this process is attached as Appendix A.

Draft legislation authorizing this gambling intercept process is attached as Appendix B. While based on Colorado’s legislation, there are a few significant differences. One, the legislation proposes that authorization of the process be placed within the licensing statutes for the gaming industry thus making compliance with the process a licensing requirement. Two, it provides limited authorization for the gaming industry and the Department to share information necessary to implement the process while otherwise maintaining and protecting the confidentiality of this information. Three, it exempts agricultural fairs from compliance with the legislation. As noted in the following section, discussion at the workgroup meeting indicated that it would be impractical for agricultural fairs to implement a gambling intercept process. Finally, it provides for a biennial report by the Department to the Legislature and Governor regarding the effectiveness of the process. As noted in the following section, discussion at the workgroup meeting indicated concern about the cost-effectiveness of the gambling intercept process. A biennial reporting requirement would ensure that the Legislature and Governor have the opportunity to periodically review the effectiveness of the process.

## Concerns and questions regarding the proposed process

Following are the concerns and questions raised by representatives of the gaming industry regarding the proposed gambling intercept process followed by the Department's response:

1. Training of gaming employees.

Response: As noted in the description of the process above and illustrated by the PowerPoint presentation, the process is simple and thus should require minimal training.

2. Safety concerns related to employees interaction with non-custodial parent during process.

Response: Similar concerns were raised in Colorado regarding their gambling intercept process. Colorado, however, has received no reports of violent incidents.

3. Harness racing customers are an older population thus likely resulting in fewer intercepts.

Response: The validity of this concern could have been assessed through a feasibility study but the Department was unable to conduct a study because it did not receive necessary information from the gaming industry. See response below (#12) regarding feasibility study.

4. Non-custodial parents will evade the process by having other persons claim winnings.

Response: This process is intended simply as one of a number of tools that DSER can use to ensure that parents cannot evade their responsibility to pay support for their children. Moreover, the draft legislation includes a biennial reporting requirement that ensures that the Legislature and Governor have the opportunity to periodically review the effectiveness of the process.

5. What tools does DSER currently have to collect support?

Response: This report summarizes the most significant enforcement tools available to DSER to collect support.

6. How have other states implemented a gambling intercept process?

Response: This report summarizes gambling intercept laws in other states.

7. Is Tribal input necessary?

Response: DSER has solicited but not received any input from the Penobscot and Passamaquoddy tribes. As gambling intercept laws in other states have not been made applicable to tribes, the proposed draft legislation is not applicable to the tribes located within Maine.

8. Is input from off-track betting facilities necessary?

Response: Although invited, several off-track betting facilities did not have representatives attend the workgroup meeting. Nevertheless, DSER has circulated a draft of this report to these facilities for comment. As of the date of this report, no comments have been received.

9. Agricultural fairs should be exempt because they are only operated for limited time periods, are primarily staffed by volunteers, and may not have ready access to the internet.

Response: DSER agrees with this concern and the proposed draft legislation provides a specific exemption for agricultural fairs.

10. What information is needed to identify a winner as a non-custodial parent and may the gaming facility compel the individual to provide this information?

Response: At a minimum, DSER asserts that a winner's name and Social Security number is needed to identify the person as a non-custodial parent. Accuracy, however, would be enhanced if date of birth and address were provided. As noted above, the draft legislation provides the gaming facilities with authority to disclose such information but otherwise maintains and protects the confidentiality of the information. While they may not be compelled to provide such information to gaming facilities, winners do have an incentive to provide the information as failure to provide a Social Security number would result in taxes being withheld from the winnings at the maximum tax rate.

11. How much was collected from interception of lottery winnings in 2008?

Response: Collections from lottery winnings in 2009 were \$19,109.00 from 20 intercepts with a match rate of 0.54%. Collections from lottery winnings in 2008 were \$20,802.76 from 21 intercepts with a match rate of 0.41%.

12. Is it possible to do a feasibility study by matching W-2Gs issued in 2008 against DSER's records to determine how much could have been collected through a gambling intercept process?

Response: DSER could readily do such a feasibility study if it were provided with information regarding the W-2G forms that were filed by gaming facilities in 2008. Gaming industry representatives, however, have not provided such information because of concerns about their ability to disclose W-2G information to DSER. Instead, they requested that DSER have Maine Revenue Service (MRS) perform the study (as this would make it unnecessary for W-2G information to be supplied to DSER). MRS, however, has indicated that it is currently unable to perform such a study due to time and budgetary constraints. Nevertheless, as noted above, the draft legislation includes a biennial reporting requirement that would ensure that the Legislature and Governor have the opportunity to periodically review the effectiveness of the process.

Appendix A: PowerPoint presentation of proposed process

Appendix B: Draft legislation