

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S3/19/15

A Bill

HOUSE BILL 1434

5 By: Representatives Ballinger, Gossage
6 By: Senator G. Stubblefield
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE SATISFACTION OF COURT-ORDERED
10 RESTITUTION IN A CRIMINAL CASE THROUGH INTERCEPTION
11 OF STATE INCOME TAX REFUNDS; AND FOR OTHER PURPOSES.
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Subtitle

15 CONCERNING THE SATISFACTION OF COURT-
16 ORDERED RESTITUTION IN A CRIMINAL CASE
17 THROUGH INTERCEPTION OF STATE INCOME TAX
18 REFUNDS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code Title 5, Chapter 4, Subchapter 2, is amended
24 to add a new section to read as follows:

25 5-4-206. Collection of unpaid restitution – Interception of state
26 income tax returns.

27 (a) As used in this section, "restitution order" means a judgment and
28 commitment order, judgment and disposition order, or other order that imposes
29 a duty on a defendant to pay restitution.

30 (b) A court that orders the payment of restitution as a condition of a
31 defendant's sentence shall note on the restitution order that the restitution
32 may be collected through an interception of the defendant's state income tax
33 return if the defendant has failed to comply with the terms and conditions of
34 the restitution order.

35 (c) If a victim who is to receive restitution under a restitution
36 order informs the prosecuting attorney that he or she has not been paid the



1 ordered restitution in accordance with the restitution order, the prosecuting
2 attorney may file a petition under this section to request the interception
3 of the defendant's state income tax return in order to satisfy the
4 restitution order.

5 (d)(1) A petition filed under this section shall be filed under the
6 same case number as the original criminal offense.

7 (2) A defendant subject to the restitution order shall be served
8 a copy of the petition and given notice of the hearing under the applicable
9 rules of procedure.

10 (e)(1) The court shall order the interception of the defendant's state
11 income tax return in an amount sufficient to satisfy the restitution order if
12 it finds that:

13 (A) The defendant has knowingly failed to abide by the
14 terms and conditions of the restitution order; and

15 (B) There exist no mitigating factors that would justify
16 the nonpayment of restitution.

17 (2) An order under this subsection shall remain in force until
18 the restitution amount in the court's order has been satisfied through
19 interception of the defendant's state income tax return or by other means.

20 (f)(1) After obtaining an order under subsection (e) of this section,
21 the prosecuting attorney or other county official or entity with a duty to
22 collect restitution may proceed under § 26-36-301 et seq. to collect the owed
23 restitution from the defendant's state income tax return.

24 (2) The Department of Finance and Administration shall
25 promulgate rules to implement subdivision (f)(1) of this section.

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27 /s/Ballinger
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