
Civil Rights & Judiciary Committee

HB 2119

Brief Description: Protecting consumers from garnishment of earnings for judgments arising from medical debt.

Sponsors: Representatives Riccelli, Taylor, Leavitt, Simmons, Reed, Ormsby, Macri, Fosse, Tharinger, Doglio, Wylie, Reeves and Pollet.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Prohibits the issuance of a writ of garnishment against the earnings of a judgment debtor where the judgment arises from the medical debt of the debtor.
--

Hearing Date: 1/17/24

Staff: Yelena Baker (786-7301).

Background:

The writ of garnishment is a remedy that allows a creditor to obtain the debtor's funds or property, such as bank account funds or wages, that are in the possession of a third party, referred to as the "garnishee."

If a creditor seeks to garnish a debtor's wages, the creditor may serve a debtor's employer with a writ of garnishment called a "writ of continuing lien on earnings" that requires the debtor's employer to pay the creditor directly out of the debtor's paycheck. A continuing lien on earnings has priority over any prior wage assignment, except an income withholding order issued by the Division of Child Support, a wage assignment order for child support, or other garnishment for child support.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Generally, a debtor's earnings are exempt up to the greater of 35 times of the federal minimum hourly wage or 75 percent of the disposable earnings, except:

- In the case of a garnishment based on a *court order for spousal maintenance*, the exemption is 50 percent of the debtor's disposable earnings.
- In the case of a garnishment based on a judgment or other order for the collection of *private student loan debt*, the exempt amount is the greater of the following: 50 times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable, or 85 percent of the debtor's disposable earnings.
- In the case of a garnishment based on an a judgment or other order for the collection of *consumer debt*, the exempt amount is the greater of the following: 35 times the state minimum hourly wage, or 80 percent of the disposable earnings of the debtor.

State law concerning enforcement of judgments defines "consumer debt" to specifically include "medical debt," which has the same meaning as in the state law regulating collection agencies and refers to any obligation for the payment of money arising out of any agreement or contract, express or implied, for the provision of health care services. Health care services include medical, surgical, dental, chiropractic, hospital, optometric, podiatric, pharmaceutical, ambulance, custodial, mental health, and other therapeutic services.

To apply for a writ of garnishment, the creditor files an affidavit stating the following facts:

- the plaintiff has a wholly or partially unsatisfied judgment in the court from which the writ is sought;
- the amount alleged to be due under that judgment;
- the plaintiff has reason to believe that the garnishee is indebted to the debtor in amounts exceeding those exempted from garnishment or has possession or control of the debtor's personal property or effects which are not exempted from garnishment; and
- whether or not the garnishee is the employer of the judgment debtor.

The clerks of the superior courts and district courts issue writs of garnishment for the benefit of a judgment creditor who has an unsatisfied judgment in the court where the garnishment is sought. Writs of garnishment may be issued in district court by the attorney of record for the judgment creditor. The effect of the attorney-issued writ is the same as one issued by a clerk of district court. The form of the writ of garnishment and the writ for continuing lien on earnings is provided in statute. Among other requirements, the writ must set forth the amount that the garnishee is required to hold, including the amount of the unsatisfied judgment plus other costs.

When a writ is issued, the judgment creditor must mail to or serve on the debtor a copy of the writ and a copy of the creditor's affidavit submitted in application for the writ. If the debtor is an individual, the creditor must also provide to the debtor a notice of the debtor's exemption rights and an exemption claim form. The notice must be in the form prescribed by the garnishment statute and must contain specified information, including a statement regarding garnishment of wages and the applicable exemptions.

Summary of Bill:

A writ of garnishment, including a writ for a continuing lien on earnings, may not be issued to an employer for the garnishment of the judgment debtor's earnings if the judgment arises from medical debt of the judgment debtor.

In addition to the current statutory requirements, the affidavit filed by a creditor when applying for a writ of garnishment must include a statement as to whether or not the judgment arises from medical debt of the judgment debtor.

The notice of garnishment and debtor's rights that must be mailed to or served on an individual judgment debtor must include a statement that a garnishment against wages or other earnings may not be issued for medical debt.

The definition of "medical debt" is added to the garnishment statute and has the same meaning in the state law concerning enforcement of judgments.

Appropriation: None.

Fiscal Note: Requested on January 12, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.