

HCS HB 1612 -- GARNISHMENTS

SPONSOR: McGaugh

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Judiciary by a vote of 6 to 2.

This bill specifies that judgments must accrue interest on the judgment balance, which is the total amount of the judgment awarded on the day judgment is entered including, but not limited to, principal, prejudgment interest, and all costs and fees. Post-judgment payments or credits must be applied first to post-judgment costs, then to post-judgment interest, and then to the judgment balance.

In a case where a garnishment is granted, the clerk of the circuit court may charge and collect a surcharge of up to \$10 for the clerk's duties. The moneys collected from this surcharge must be placed in a fund to be used at the discretion of the clerk to maintain and improve case processing and record preservation.

Writs of garnishment which would otherwise have equal priority must have priority according to the date of service on the garnishee. If the employee's wages have been attached by more than one writ of garnishment, the employer must inform the inferior garnisher of the existence and case number of all senior garnishments.

The garnishee may deduct a one-time sum of up to \$20, or the fee previously agreed upon between the garnishee and judgment debtor where the garnishee is a financial institution, for his or her trouble and expenses in answering the interrogatories and withholding the funds, to be withheld from any funds garnished, in addition to the moneys withheld to satisfy the court-ordered judgment. This fee must not be a credit against the court-ordered judgment and must be collected first. The garnishee may file a motion with the court for additional costs, including attorney fees, reasonably incurred in answering the interrogatories, and the court may make an award as it deems reasonable. The motion must be filed on or before the date the garnishee makes payment or delivers property subject to garnishment to the court.

The bill repeals the current provisions regarding a judgment against an officer, appointee, or employee of this state or any municipal corporation or other political subdivision of the state and specifies that the provisions constitute a waiver of sovereign immunity with respect to garnishment of the pay of state, municipal, or other political subdivision employees. The state, municipal, or other political subdivision employer served with a garnishment must have the same duties and obligations as those

imposed upon a private employer when served with garnishment. Pay of any officer, appointee, or employee of the state or any municipal corporation or other political subdivision of the state must be subject to garnishment to the same extent as in any other garnishment, and all garnishments against the employee must proceed in the same manner as any other garnishment except service of legal process to a department, municipal corporation, or other political subdivision of the state may be accomplished by certified mail, return receipt requested, or by personal service upon the appropriate agent designated for receipt of the service of process or the head of the department, municipal corporation, or other political subdivision of the state if no agent has been designated.

The bill has a January 15, 2015, effective date.

PROPOSERS: Supporters say that the bill addresses some garnishment issues. It adds a \$10 charge that the circuit clerk may charge for a garnishment. Currently, the judgment debtor does not have to be served; this bill would add that additional step to the garnishment process. The clerks view this as an issue that needs to be addressed. The clerks have been requesting a garnishment fee for a number of years. A continuous garnishment would simplify the process and make things easier for the clerk, the creditor, the employer, and the sheriff.

Testifying for the bill were Representative McGaugh; Office of the State Courts Administrator; Steve Helms, Circuit Clerk for Greene County; Missouri Circuit Clerks Association; Ed Meyers, Missouri Creditors Bar; Missouri Retailers Association; and Missouri Grocers Association.

OPPOSERS: Those who oppose the bill say that they oppose certain language, mainly the Sheriff's being cut out.

Testifying against the bill was Pike County Sheriff Stephen Korte.