

COMMITTEE OF ORIGIN: Committee on Judiciary

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.

Upon receipt of a garnishment application, the clerk must process the application, issue the writ, and return the garnishment to the garnishor to direct service upon the garnishee. Service must be made by the sheriff of the county in which the garnishee is to be served. If the sheriff fails to obtain service, the garnishor may request the court to appoint a special process server who must have the same duties as the sheriff with respect to the service of garnishments, or the garnishor may obtain service by certified mail.

The person who serves the garnishment upon the garnishee must also serve a copy of the summons and writ upon the judgment debtor. The writ must be served by delivering it to the judgment debtor as provided by supreme court rule or by mailing the documents to the judgment debtor's last known address. Service by mail is complete upon mailing. At the time of mailing, a certificate of service must be filed with the court and show the caption of the case, the name of the party served, the date and manner of service, the designation of the documents, and the signature of the serving party or attorney.

If the garnishor has chosen to serve the garnishee by certified mail, the judgment debtor may be served simultaneously, but in all cases the judgment debtor must be served no later than five days after notice of service upon the garnishee. The failure of the garnishor to serve the judgment debtor within the amount of time required does not affect the validity or priority of the garnishment, but extends the time for the judgment debtor to claim exemptions to 20 after being served with the summons and writ of garnishment or 20 after funds are first withheld, whichever occurs first.

Every writ of garnishment must have clearly and legibly printed thereon a notice to the person against whom the garnishment has issued that a garnishment has been levied, that certain funds may be exempt, and that the person has the right to hold the funds as exempt from garnishment. The notice must also generally state that there are certain exemptions under state and federal law that the judgment debtor may be able to claim with respect to the funds levied upon and describe the procedure for claiming the funds as exempt.

The judgment debtor may claim any exemption by filing and serving the garnishor with a verified request to claim exemptions within 20 days after being served with the garnishment. The party requesting the garnishment may object to any claim for exemption within 20 days of the filing of the verified request by filing a request for court review. If a request for court review is not timely filed, the garnishee must release from garnishment the funds claimed as exempt by the judgment debtor, or, in the event any of the exempt funds have been previously paid to the court or the garnishor, the exempt funds must be returned to the judgment debtor upon notice from the judgment debtor.

Any hearing required by the court must be expedited, held no later than 30 days after the filing of the request for court review, and all parties must receive a minimum of three days notice of the hearing.

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.