



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 19-1189

REVISED
FISCAL NOTE

(replaces fiscal note dated March 5, 2019)

Drafting Number:	LLS 19-0805	Date:	April 12, 2019
Prime Sponsors:	Rep. Gray; Valdez A. Sen. Bridges; Fields	Bill Status:	Senate Finance
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Bill Topic: WAGE GARNISHMENT REFORM

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>)	<input checked="" type="checkbox"/> Local Government (<i>minimal</i>)
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill makes changes regarding the garnishment of a debtor's wages for the payment of debt. Under this bill, state and local government revenue decreases and workload increases by a minimal amount. These impacts are ongoing.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note has been revise to reflect the reengrossed bill.

Summary of Legislation

This bill makes changes regarding the garnishment of a debtor's wages for the payment of debt to a creditor.

Earnings subject to garnishment. The amount of money that may be garnished from a debtor's weekly earnings is changed from the lessor of 25 percent or 30 times the federal minimum hourly wage to the lessor of 20 percent or 40 times the federal minimum hourly wage.

Health insurance exemption. Currently, the cost of court-ordered health insurance is excluded from the disposable earnings that is subject to garnishment. This bill adds the cost of any health insurance that is provided by an individual's employer and withheld from earnings to the amount excluded from disposable earnings.

Notice of continuing garnishment. Under current law, a notice of a continuing garnishment must be provided by the creditor and include the formula used to determine exempt earnings and the amount of nonexempt earnings per pay period. This notice must also notify the debtor of his or her ability to object to the calculations. This bill expands the information that must be provided in this notification to include the amount owed by the debtor and information related to Colorado garnishment requirements and how the garnishment process works. The format in which this notification must be provided is specified in the bill.

This bill also changes the timing for when this notice must be provided from when earnings for the first pay period that is subject to the garnishment are received to 7 days after the court approves the garnishment and provides more time (14 days) before the garnishment takes effect. If this notice is sent to the wrong debtor or does not contain all of the required information, another notice must be sent with information on the pay frequency, first payday 21 days after the writ of garnishment was served or prior writ expires, and earnings subject to income tax deductions. If the second notice is required, the garnishment begins on the first payday 21 days after the writ of garnishment was served.

Objection hearing. This bill authorizes an individual with a wage garnishment to file a written objection to the amount of wages being garnished on the grounds that a greater amount should be exempt from disposable earnings. A determination on the sufficiency of the garnishment must be made by the court based on proof of living expenses incurred by the debtor or the debtor and their family 60 days prior to the hearing. Living expenses that must be considered by the court are specified in the bill.

Background

In civil court, a creditor may obtain a writ of garnishment against a debtor to recover funds owed to him or her. If a writ of garnishment is approved by the court, the debtor's employer is required to withhold a portion of the debtors paycheck for payment to the creditor. Data on the number of civil filings for a writ of garnishment was not available at the time of this writing.

State Revenue

Beginning in FY 2019-20, this bill increases civil filing fee cash fund revenue by a minimal amount. Revenue will increase if the number of civil filings for a writ of garnishment increase or objections to a continuing garnishment are filed. For informational purposes, the civil filing fee for county court ranges from \$85 to \$135 depending on the amount of damages sought, and \$235 for district court. Civil cases seeking damages of less than \$25,000 may be filed in county or district court, while cases seeking damages over \$25,000 must be filed in district court. Civil filing fees are subject to TABOR; however, under the March 2019 Legislative Council Staff forecast, a TABOR surplus is not expected in FY 2019-20 or FY 2020-21.

State Expenditures

Beginning in FY 2019-20, this bill minimally increases state agency workload as discussed below.

Judicial Department. If additional civil filings for wage garnishments are received, trial court workload will increase. Workload also increases to adjust writ of garnishment review procedures to ensure future garnishments are determined using the new amount subject to garnishment and exclude health insurance that is provided by an individual's employer. These impacts are assumed to be minimal and can be addressed within existing appropriations.

Department of Personnel and Administration. The central payroll unit in the Department of Personnel and Administration may receive a writ of garnishment for a state employee that is subject to a wage garnishment. This bill minimally increases workload to adjust processes to ensure the proper amount is garnished and, if requested, to provide a report on how the amount garnished was calculated.

Local Government

Similar to the state and beginning in FY 2019-20, this bill impacts local government revenue and workload. Revenue and workload for Denver County court are increased to update writ of garnishment review procedures and additional writ of garnishment civil filings. Local government workload is increased to ensure any writ of garnishments received are properly entered and to provide a report on how the amount garnished was calculated, if requested.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed. It applies to writs of garnishment issued on or after January 1, 2020.

State and Local Government Contacts

Counties	Information Technology	Judicial
Law	Municipalities	Personnel