

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0805.01 Michael Dohr x4347

HOUSE BILL 19-1189

HOUSE SPONSORSHIP

Gray and Valdez A.,

SENATE SPONSORSHIP

Bridges,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING WAGE GARNISHMENT REFORM, AND, IN CONNECTION
102 THEREWITH, REDUCING DISPOSABLE EARNINGS BY HEALTH
103 INSURANCE PREMIUMS, REDUCING THE AMOUNT THAT IS
104 SUBJECT TO GARNISHMENT, AND PROVIDING MORE DETAILED
105 INFORMATION TO THE JUDGMENT DEBTOR REGARDING
106 GARNISHMENT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, the amount of an individual's disposable

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

earnings subject to garnishment is either 25% of the individual's disposable earnings for a week or the amount an individual's disposable earnings for a week exceed 30 times the state or federal minimum wage, whichever is less. The bill changes the amount subject to garnishment from 25% to 15% of the individual's disposable weekly earnings and from 30 times to 50 times the amount an individual's disposable earnings for a week exceed the state or federal minimum wage. Currently, the cost of court-ordered health insurance for a child provided by an individual is deducted from the individual's disposable earnings subject to garnishment. The bill also deducts from an individual's disposable earnings subject to garnishment the cost of any health insurance that is provided by the individual's employer and voluntarily withheld from the individual's earnings.

The bill creates an exemption that would permit individuals to prove that the amount of their pay subject to garnishment should be further reduced or eliminated altogether if the individual can establish that such reductions are necessary to support the individual or the individual's family. The bill also requires clearer and more timely notice to an individual whose wages are being garnished and gives the individual more time after receiving the notice before garnishment starts.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-54.5-102, **amend**
3 (1) and (2); and **add** (2.5) as follows:

4 **13-54.5-102. Continuing garnishment - creation of lien.** (1) In
5 addition to garnishment proceedings otherwise available ~~under~~ PURSUANT
6 TO the laws of this state in any case in which a money judgment is
7 obtained in a court of competent jurisdiction, the judgment creditor or its
8 assignees ~~shall be~~ ARE entitled, on notice to the judgment debtor required
9 by ~~section 13-54.5-105~~ SECTION 13-54.5-105 (5)(b), to apply to the clerk
10 of such court for garnishment against any garnishee. To the extent that the
11 earnings are not exempt from garnishment, such garnishment ~~shall be~~ IS
12 a lien and continuing levy upon the earnings due or to become due from
13 the garnishee to the judgment debtor CONSISTENT AND IN ACCORDANCE
14 WITH THE REQUIREMENTS OF SECTION 13-54.5-105 (6).

1 (2) Garnishment pursuant to subsection (1) of this section ~~shall be~~
2 is a lien and continuing levy against said earnings due for one hundred
3 eighty-two days ~~following service of the writ~~ CONSISTENT AND IN
4 ACCORDANCE WITH THE REQUIREMENTS OF SECTION 13-54.5-105 (6) or for
5 one hundred eighty-two days following the expiration of any writs with
6 a priority ~~under~~ PURSUANT TO section 13-54.5-104, but such lien ~~shall be~~
7 IS terminated earlier than one hundred eighty-two days if earnings are no
8 longer due; the underlying judgment is vacated, modified, or satisfied in
9 full; or the writ is dismissed; except that a continuing garnishment may
10 be suspended for a specified period of time by the judgment creditor upon
11 agreement with the judgment debtor, which agreement shall be in writing
12 and filed by the judgment creditor with the clerk of the court in which the
13 judgment was entered and a copy of which shall be delivered by the
14 judgment creditor to the garnishee.

15 (2.5) A GARNISHEE IS NOT REQUIRED TO COLLECT, POSSESS, OR
16 CONTROL THE JUDGMENT DEBTOR'S TIPS, AND ANY TIPS ARE NOT OWED BY
17 A GARNISHEE TO A JUDGMENT CREDITOR.

18 **SECTION 2.** In Colorado Revised Statutes, 13-54.5-103, **amend**
19 (3); and **repeal** (1) as follows:

20 **13-54.5-103. Property or earnings subject to garnishment.**

21 (1) ~~Any earnings owed by the garnishee to the judgment debtor at the~~
22 ~~time of service of the writ of continuing garnishment upon the garnishee~~
23 ~~and all earnings accruing from the garnishee to the judgment debtor from~~
24 ~~such date of service up to and including the ninetieth day thereafter shall~~
25 ~~be subject to the process of continuing garnishment. A garnishee shall not~~
26 ~~be required to collect, possess, or control the judgment debtor's tips, and~~
27 ~~any such tips shall not be owed by a garnishee to a judgment debtor.~~

1 (3) Notwithstanding the provisions of ~~subsections (1) and (2)~~
2 SUBSECTION(2) of this section, the exemptions from garnishment required
3 or allowed by law, including but not limited to exemptions provided by
4 sections 13-54-102 and 13-54-104 and 15 U.S.C. sec. 1671 et seq., shall
5 apply to all garnishments.

6 **SECTION 3.** In Colorado Revised Statutes, 13-54-104, **amend**
7 (1)(a), (2)(a) introductory portion, and (2)(a)(I) as follows:

8 **13-54-104. Restrictions on garnishment and levy under**
9 **execution or attachment - definitions.** (1) As used in this section,
10 unless the context otherwise requires:

11 (a) "Disposable earnings" means that part of the earnings of any
12 individual remaining after the deduction from those earnings of any
13 amounts required by law to be withheld and after the deduction of the
14 cost of any health insurance provided by the individual pursuant to
15 section 14-14-112 ~~C.R.S.~~ AND THE COST OF ANY HEALTH INSURANCE FOR
16 THE INDIVIDUAL OR MEMBERS OF THE INDIVIDUAL'S HOUSEHOLD THAT IS
17 PROVIDED BY THE INDIVIDUAL'S EMPLOYER AND WITHHELD FROM THE
18 INDIVIDUAL'S EARNINGS. In the case of an order for the support of a
19 spouse, former spouse, or dependent child, "disposable earnings" includes
20 ~~moneys~~ MONEY voluntarily deposited in tax-deferred compensation funds.

21 (2) (a) Except as provided in subsection (3) of this section, the
22 maximum part of the aggregate disposable earnings of an individual for
23 any workweek ~~which~~ THAT is subjected to garnishment or levy under
24 execution or attachment may not exceed:

25 (I) For debts other than debts ~~under subparagraph (H) of this~~
26 ~~paragraph (a)~~ PURSUANT TO SUBSECTION (2)(a)(II) OF THIS SECTION, the
27 lesser of:

1 (A) ~~Twenty-five~~ FIFTEEN percent of the individual's disposable
2 earnings for that week; or

3 (B) The amount by which the individual's disposable earnings for
4 that week exceed ~~thirty~~ FIFTY times the federal minimum hourly wage
5 prescribed by ~~section 206 (a)(1) of title 29 of the United States Code 29~~
6 U.S.C. SEC. 206 (a)(1) in effect at the time the earnings are payable; or

7 (C) The amount by which the individual's disposable earnings for
8 that week exceed ~~thirty~~ FIFTY times the state minimum hourly wage
9 pursuant to section 15 of article XVIII of the state constitution in effect
10 at the time the earnings are payable;

11 (D) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS
12 (2)(a)(I)(A), (2)(a)(I)(B), AND (2)(a)(I)(C) OF THIS SECTION, A JUDGMENT
13 DEBTOR MAY FILE A WRITTEN OBJECTION PURSUANT TO SECTION
14 13-54.5-108 (1)(a), WITHOUT THE NECESSITY OF CONFERRING WITH THE
15 GARNISHEE, AND SEEK A HEARING PURSUANT TO SECTION 13-54.5-109
16 (1)(a). AT THE HEARING THE JUDGMENT DEBTOR MAY ESTABLISH THAT A
17 GREATER PORTION OF THE JUDGMENT DEBTOR'S DISPOSABLE EARNINGS
18 SHOULD BE EXEMPT FROM GARNISHMENT FOR THE SUPPORT OF THE
19 JUDGMENT DEBTOR OR THE JUDGMENT DEBTOR'S FAMILY SUPPORTED, IN
20 WHOLE OR IN PART, BY THE JUDGMENT DEBTOR. AT SUCH HEARING, THE
21 COURT SHALL, PURSUANT TO SECTION 13-54.5-109 (2), DETERMINE
22 WHETHER THE EARNINGS OF THE JUDGMENT DEBTOR FOLLOWING
23 GARNISHMENT ARE INSUFFICIENT TO PAY THE ACTUAL LIVING EXPENSES
24 OF THE JUDGMENT DEBTOR OR THE JUDGMENT DEBTOR AND JUDGMENT
25 DEBTOR'S FAMILY BASED UPON PROOF OF SUCH EXPENSES INCURRED
26 DURING THE SIXTY DAYS PRIOR TO THE HEARING. IF THE COURT MAKES A
27 DETERMINATION OF INSUFFICIENCY, IT SHALL ORDER THAT MORE OF THE

1 JUDGMENT DEBTOR'S DISPOSABLE EARNINGS SHOULD BE EXEMPT FROM
2 GARNISHMENT THAN PRESCRIBED BY SUBSECTIONS (2)(a)(I)(A),
3 (2)(a)(I)(B), AND (2)(a)(I)(C) OF THIS SECTION.

4 **SECTION 4.** In Colorado Revised Statutes, **repeal and reenact,**
5 **with amendments,** 13-54.5-105 as follows:

6 **13-54.5-105. Notice to judgment debtor in continuing**
7 **garnishment.** (1) IN THE CASE OF A CONTINUING GARNISHMENT, THE
8 WRIT OF GARNISHMENT MUST BE SERVED ON THE GARNISHEE IN
9 ACCORDANCE WITH RULE 4 OF THE COLORADO RULES OF CIVIL
10 PROCEDURE.

11 (2) THE WRIT OF GARNISHMENT PURSUANT TO SUBSECTION (1) OF
12 THIS SECTION MUST INCLUDE:

13 (a) THE NAME OF THE JUDGMENT DEBTOR;

14 (b) THE LAST-KNOWN PHYSICAL AND MAILING ADDRESSES OF THE
15 JUDGMENT DEBTOR OR A STATEMENT THAT THE INFORMATION IS NOT
16 KNOWN;

17 (c) THE AMOUNT THE JUDGMENT CREDITOR CLAIMS IS OWED BY
18 THE JUDGMENT DEBTOR;

19 (d) INFORMATION SUFFICIENT TO IDENTIFY THE JUDGMENT ON
20 WHICH THE CONTINUING GARNISHMENT IS BASED;

21 (e) A COMPLETED NOTICE THAT SATISFIES SUBSECTION (3) OF THIS
22 SECTION; AND

23 (f) A NOTICE OF COLORADO RULES ABOUT GARNISHMENT THAT
24 SATISFIES SUBSECTION (4) OF THIS SECTION.

25 (3) THE NOTICE REQUIRED BY SUBSECTION (2)(e) OF THIS SECTION
26 MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

27 **NOTICE OF GARNISHMENT**

1 MONEY WILL BE TAKEN FROM YOUR PAY IF YOU FAIL TO ACT

2 **1. WHY AM I GETTING THIS NOTICE?**

3 YOU ARE GETTING THIS NOTICE BECAUSE (NAME OF
4 JUDGMENT CREDITOR) SAYS YOU OWE THEM MONEY. (NAME
5 OR SHORTENED NAME OF JUDGMENT CREDITOR -
6 HEREINAFTER "CREDITOR") HAS STARTED A LEGAL PROCESS
7 CALLED A "GARNISHMENT". THE PROCESS REQUIRES THAT
8 MONEY BE TAKEN FROM YOUR PAY AND GIVEN TO CREDITOR
9 TO PAY WHAT YOU OWE. THE PERSON WHO PAYS YOU DOES
10 NOT KEEP THE MONEY.

11 CREDITOR FILLED OUT THIS FORM. THE LAW
12 REQUIRES THE PERSON WHO PAYS YOU TO GIVE YOU THIS
13 FORM. CREDITOR MAY NOT BE THE PERSON OR COMPANY TO
14 WHICH YOU ORIGINALLY OWED MONEY. YOU MAY REQUEST
15 THAT CREDITOR PROVIDE THE NAME AND ADDRESS OF THE
16 PERSON OR COMPANY TO WHICH YOU ORIGINALLY OWED
17 MONEY. IF YOU WANT THIS INFORMATION, YOU MUST WRITE
18 CREDITOR OR CREDITOR'S LAWYER AT (INSERT ADDRESS
19 PROVIDED BY CREDITOR). YOU MUST DO THIS WITHIN
20 FOURTEEN DAYS AFTER RECEIVING THIS NOTICE. CREDITOR
21 WILL SEND YOU THIS INFORMATION AT THE ADDRESS YOU
22 GIVE CREDITOR. CREDITOR MUST SEND YOU THIS
23 INFORMATION WITHIN SEVEN DAYS AFTER RECEIVING YOUR
24 REQUEST. KNOWING THE NAME OF THE ORIGINAL CREDITOR
25 MIGHT HELP YOU UNDERSTAND WHY THE MONEY WILL BE
26 TAKEN FROM YOUR PAY.

27 **2. HOW MUCH DO I OWE?**

1 CREDITOR SAYS YOU CURRENTLY OWE \$ (STATE
2 AMOUNT). THE AMOUNT COULD GO UP IF THERE ARE MORE
3 COURT COSTS OR ADDITIONAL INTEREST. CREDITOR SAYS
4 THAT THE INTEREST RATE ON THE AMOUNT YOU OWE IS
5 (INSERT RATE) %. THE AMOUNT COULD ALSO GO DOWN IF
6 YOU MAKE PAYMENTS TO CREDITOR.

7 **3. HOW WILL THE AMOUNT I OWE BE PAID?**

8 THE PERSON WHO PAYS YOU WILL START TAKING
9 MONEY FROM YOUR PAYCHECK ON THE FIRST PAYDAY THAT
10 IS AT LEAST 30 DAYS AFTER YOU RECEIVE THIS NOTICE.
11 MONEY WILL CONTINUE TO BE TAKEN FROM YOUR PAY
12 UNTIL THE TOTAL AMOUNT YOU OWE ON THIS DEBT IS PAID.

13 THE RULES ABOUT HOW MUCH OF YOUR PAY CAN BE
14 TAKEN ARE EXPLAINED IN THE NOTICE OF COLORADO RULES
15 ABOUT GARNISHMENT THAT YOU RECEIVED WITH THIS
16 NOTICE. THIS NOTICE ALSO CONTAINS AN ESTIMATE OF HOW
17 MUCH OF YOUR PAY WILL LIKELY BE WITHHELD EACH
18 PAYCHECK.

19 AT ANY TIME, YOU CAN GET A REPORT THAT SHOWS
20 HOW THE AMOUNT TAKEN FROM YOUR PAY WAS
21 CALCULATED. TO RECEIVE THIS REPORT, YOU MUST WRITE
22 OR E-MAIL THE PERSON WHO PAYS YOU.

23 **4. WHAT OPTIONS DO I HAVE?**

24 YOU HAVE THREE OPTIONS:

25 TALK WITH A LAWYER: A LAWYER CAN EXPLAIN THE
26 SITUATIONS TO YOU AND HELP YOU DECIDE WHAT TO DO.
27 THE SELF-HELP DESK OF THE COURT WHERE THE

1 GARNISHMENT ACTION IS PENDING CAN HELP YOU FIND A
2 LAWYER.

3 CONTACT CREDITOR: IF YOU CAN WORK SOMETHING
4 OUT WITH CREDITOR, MONEY MIGHT NOT HAVE TO BE
5 TAKEN FROM YOUR PAY. THIS IS CREDITOR'S CONTACT
6 INFORMATION: (INSERT CREDITOR'S CONTACT
7 INFORMATION)

8 REQUEST A COURT HEARING: A HEARING COULD BE
9 HELPFUL IF THERE ARE DISAGREEMENTS ABOUT THE
10 GARNISHMENT, SUCH AS WHETHER YOU OWE THE MONEY,
11 WHETHER THE AMOUNT OF MONEY BEING WITHHELD FROM
12 YOUR PAYCHECK IS CORRECT, OR WHETHER THE AMOUNT
13 BEING WITHHELD SHOULD BE REDUCED TO HELP YOU
14 SUPPORT YOUR FAMILY AND YOURSELF. IF YOU DISAGREE
15 WITH THE ESTIMATE OF THE AMOUNT OF MONEY THAT WILL
16 BE WITHHELD FROM YOUR PAYCHECK, YOU MUST ATTEMPT
17 TO WORK THIS OUT WITH THE PERSON WHO PAYS YOU
18 WITHIN 7 DAYS AFTER RECEIVING THIS NOTICE. IF YOU
19 CANNOT WORK IT OUT WITH THE PERSON WHO PAYS YOU,
20 YOU MAY SEEK A HEARING IN COURT. ALSO, IF YOU THINK
21 THAT YOU NEED MORE MONEY TO SUPPORT YOUR FAMILY
22 AND YOURSELF, YOU MAY SEEK A COURT HEARING WITHOUT
23 CONSULTING THE PERSON WHO PAYS YOU. FOR HELP
24 REQUESTING A HEARING, CONTACT THE SELF-HELP DESK OF
25 THE COURT WHERE THE GARNISHMENT ACTION IS PENDING.

26 **5. WHAT IF I DON'T DO ANYTHING?**

27 IF YOU DON'T DO ANYTHING, THE LAW REQUIRES

1 THAT MONEY BE TAKEN OUT OF YOUR PAYCHECK
2 BEGINNING WITH THE FIRST PAYDAY THAT IS AT LEAST 30
3 DAYS AFTER YOU RECEIVE THIS NOTICE. THE MONEY WILL
4 BE GIVEN TO CREDITOR. THIS PROCESS WILL CONTINUE FOR
5 6 MONTHS UNLESS YOUR DEBT IS PAID OFF BEFORE THAT.

6 (4) THE NOTICE REQUIRED BY SUBSECTION (2)(f) OF THIS SECTION
7 MUST:

8 (a) HAVE A HEADING STATING THAT IT IS THE NOTICE OF
9 COLORADO RULES ABOUT GARNISHMENT; AND

10 (b) REASONABLY INFORM THE JUDGMENT DEBTOR OF:

11 (I) THE LIMITS ON WAGE GARNISHMENT PURSUANT TO SECTION
12 13-54-104;

13 (II) EXEMPTIONS FROM AND LIMITS ON GARNISHMENT PURSUANT
14 TO THE LAWS OF THE STATE;

15 (III) THE PROCESS FOR CLAIMING EXEMPTIONS FROM AND LIMITS
16 ON GARNISHMENT; AND

17 (IV) AN ESTIMATE, BASED ON THE JUDGMENT DEBTOR'S LAST
18 PAYCHECK AND PREPARED BY THE GARNISHEE, OF THE AMOUNT THAT
19 WOULD LIKELY BE WITHHELD FROM THE JUDGMENT DEBTOR'S PAYCHECKS
20 IN THE FUTURE.

21 (5) NOT LATER THAN FOURTEEN DAYS AFTER BEING SERVED WITH
22 A WRIT OF GARNISHMENT:

23 (a) IF ONE OF THE FOLLOWING GROUNDS APPLIES, THE GARNISHEE
24 SHALL SEND NOTICE TO THE JUDGMENT CREDITOR STATING THE
25 APPLICABLE GROUND:

26 (I) THE JUDGMENT DEBTOR IS NOT AN EMPLOYEE OF THE
27 GARNISHEE; OR

1 (II) THE JUDGMENT DEBTOR'S PRINCIPAL PLACE OF WORK IS NOT IN
2 COLORADO, AND THE GARNISHEE IS SUBJECT TO JURISDICTION IN THE
3 STATE OF THE JUDGMENT DEBTOR'S PLACE OF WORK; OR

4 (III) THE WRIT OF GARNISHMENT DOES NOT CONTAIN ALL
5 INFORMATION REQUIRED BY SUBSECTION (2) OF THIS SECTION.

6 (b) IF SUBSECTION (5)(a) OF THIS SECTION DOES NOT APPLY, THE
7 GARNISHEE SHALL:

8 (I) SEND TO THE JUDGMENT CREDITOR A NOTICE THAT INCLUDES:

9 (A) A STATEMENT THAT THE NAMED JUDGMENT DEBTOR IS AN
10 EMPLOYEE OF THE GARNISHEE;

11 (B) THE PAY FREQUENCY OF THE JUDGMENT DEBTOR AND THE
12 DATE OF THE FIRST PAYDAY THAT IS AT LEAST THIRTY DAYS AFTER THE
13 GARNISHEE HAS PROVIDED TO THE JUDGMENT DEBTOR THE NOTICES
14 REQUIRED PURSUANT TO SUBSECTIONS (2)(e) AND (2)(f) OF THIS SECTION;

15 (C) IF THE JUDGMENT DEBTOR'S EARNINGS ARE SUBJECT TO
16 DEDUCTIONS OTHER THAN WITHHOLDING FOR LOCAL, STATE, AND FEDERAL
17 INCOME TAXES AND PURSUANT TO THE "FEDERAL INSURANCE
18 CONTRIBUTIONS ACT", 26 U.S.C. SEC. 3101 ET SEQ., AS AMENDED, THE
19 NATURE, NUMBER, AND AMOUNTS OF THESE DEDUCTIONS AND THE
20 RELATIVE PRIORITY OF THE WRIT OF GARNISHMENT; AND

21 (II) SEND TO THE JUDGMENT DEBTOR ON THE SAME DAY THE
22 NOTICE REQUIRED BY SUBSECTION (5)(b)(I) OF THIS SECTION IS SENT TO
23 THE JUDGMENT CREDITOR A COPY OF THE WRIT OF GARNISHMENT AND THE
24 NOTICES REQUIRED PURSUANT TO SUBSECTIONS (2)(e) AND (2)(f) OF THIS
25 SECTION.

26 (6) IF SUBSECTION (5)(b)(I) OF THIS SECTION APPLIES, THE
27 GARNISHEE SHALL BEGIN GARNISHMENT ON THE FIRST PAYDAY THAT

1 OCCURS AT LEAST THIRTY DAYS AFTER THE GARNISHEE SENDS TO THE
2 JUDGMENT DEBTOR THE NOTICES REQUIRED PURSUANT TO SUBSECTIONS
3 (2)(e) AND (2)(f) OF THIS SECTION.

4 **SECTION 5.** In Colorado Revised Statutes, 13-54.5-107, **amend**
5 (1) as follows:

6 **13-54.5-107. Service of notice upon judgment debtor.** (1) In a
7 case of continuing garnishment, the garnishee shall deliver a copy of the
8 writ of garnishment AND NOTICES required by section 13-54.5-105 to the
9 judgment debtor ~~at the time the judgment debtor receives earnings for the~~
10 ~~first pay period affected by such writ of continuing garnishment~~ IN
11 ACCORDANCE WITH THE PROVISIONS OF SECTION 13-54.5-105 (5)(b)(II).

12 **SECTION 6. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2020 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.