

Senate Bill 443

By: Senators Stone of the 23rd, Anderson of the 24th and Mullis of the 53rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 4 of Title 18 of the Official Code of Georgia Annotated, relating to
2 garnishment proceedings, so as to revise procedures for garnishment proceedings; to provide
3 for uniform procedures for garnishment actions; to provide definitions; to limit the maximum
4 part of disposable earnings subject to garnishment in relation to certain educational or student
5 loans; to provide a fixed time for continuous garnishments; to provide for voluntary
6 reductions of payments; to provide for litigation procedures for parties to garnishment
7 actions; to provide procedures for default judgments; to provide for the disbursement of
8 funds; to provide procedural forms for garnishment; to amend Article 7 of Chapter 3 of
9 Title 20 of the Official Code of Georgia Annotated, relating to scholarships, loans, and
10 grants, so as to provide for cross-references; to provide for related matters; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 4 of Title 18 of the Official Code of Georgia Annotated, relating to garnishment
15 proceedings, is amended by adding a new paragraph to Code Section 18-4-1, relating to
16 definitions, to read as follows:

17 "(7) 'Statutory overnight delivery' shall have the same meaning as defined in Code
18 Section 9-10-12."

19 style="text-align:center">**SECTION 2.**

20 Said chapter is further amended by revising subsections (c) and (d) of Code Section 18-4-2,
21 relating to uniform procedures for garnishment, entitlement to procedures, application of the
22 Civil Practice Act, and amendment, as follows:

23 "(c) Except as otherwise provided in this chapter, Chapter 11 of Title 9 shall apply in
24 garnishment proceedings in the state courts and superior courts of this state.

25 (d) Any affidavit, garnishee answer, or pleading required or permitted by this chapter shall
 26 be amendable at any time before judgment is entered or before money or other property
 27 subject to garnishment is distributed by the court; however, no person or entity not named
 28 as garnishee in the original affidavit of garnishment filed in an action may be added as a
 29 garnishee by any amendment in such action absent a showing that any such amendment is
 30 done to correct or clarify the identity of an originally named garnishee."

31 **SECTION 3.**

32 Said chapter is further amended by adding a new subsection to Code Section 18-4-3, relating
 33 to affidavit and requirements and summons of garnishment, to read as follows:

34 "(e) The amount remaining due on a judgment may include, at the election of the plaintiff,
 35 any and all unrecovered filing and service fees paid to a court of this state, or to any sheriff,
 36 marshal, constable, or other such person authorized by law to serve process, for previous
 37 garnishment actions based on such judgment."

38 **SECTION 4.**

39 Said chapter is further amended by revising subsections (b) and (c) Code Section 18-4-4,
 40 relating to process of garnishment and period of garnishment, as follows:

41 "(b) All money or other property of the defendant in the possession or control of the
 42 garnishee at the time of service of the summons of garnishment upon the garnishee or
 43 coming into the possession or control of the garnishee throughout the garnishment period
 44 shall be subject to the process of garnishment, provided that, in the case of collateral
 45 securities in the hands of a creditor, such securities shall not be subject to garnishment so
 46 long as there is an amount owed, even if not then due, on the debt for which the securities
 47 were given as collateral.

48 (c) The garnishment period shall begin on the day of service of the summons of
 49 garnishment and, for:

50 (1) A continuing garnishment, shall include the next ~~179~~ 1,095 days;

51 (2) Garnishments, other than a continuing garnishment or continuing garnishment for
 52 support, served on a financial institution, shall include the next five days;

53 (3) A continuing garnishment for support, shall remain for so long as the defendant is
 54 employed by the garnishee and shall not terminate until the original arrearage is retired;
 55 and

56 (4) All other garnishments, shall include the next 29 days."

57

SECTION 5.

58 Said chapter is further amended by revising Code Section 18-4-5, relating to maximum part
59 of disposable earnings subject to garnishment and adverse employment action prohibited, as
60 follows:

61 "18-4-5.

62 (a)(1) Subject to the limitations set forth in Code Sections 18-4-6 and 18-4-53, the
63 maximum part of disposable earnings for any work week which is subject to garnishment
64 shall not exceed the lesser of:

65 (A) Twenty-five percent of the defendant's disposable earnings for that week; provided,
66 however, that if the garnishment is in relation to an educational or student loan for
67 postsecondary educational expenses and is not a loan guaranteed under 20 U.S.C. 1070,
68 et seq., then 15 percent of the defendant's disposable earnings for that week; or

69 (B) The amount by which the defendant's disposable earnings for that week exceed
70 \$217.50.

71 (2) In case of earnings for a period other than a week, the proportionate fraction or
72 multiple of 30 hours per week at \$7.25 per hour shall be used.

73 (b) The limitation on garnishment set forth in subsection (a) of this Code section shall
74 apply although the garnishee may receive a summons of garnishment in more than one
75 garnishment case naming the same defendant unless the garnishee has received a summons
76 of continuing garnishment for support as provided in Article 3 of this chapter.

77 (c) No employer shall discharge an employee by reason of the fact that such employee's
78 earnings have been subjected to garnishment for any one obligation, even though more than
79 one summons of garnishment may be served upon such employer with respect to the
80 obligation.

81 (d) The amount to be paid by the garnishee in a continuing garnishment may be voluntarily
82 modified to a lesser amount if the plaintiff and the defendant execute the form provided in
83 Code Section 18-4-90. The form shall be effective only upon:

84 (1) Filing the fully executed and attested form or a copy thereof in the garnishment court;
85 and

86 (2) Serving the filed form upon the garnishee as provided in Code Section 9-11-4, or,
87 when the garnishment is filed in a magistrate court, by serving the garnishee by using the
88 constable of the magistrate court in the manner set forth in Code Section 9-11-4, or
89 obtaining a written acknowledgment of receipt of service of the form by the garnishee,
90 which may be by, but is not limited to, electronic mail, if the responding representative
91 of the garnishee confirms authority to make such acknowledgment or is an officer or
92 attorney of the garnishee."

93

SECTION 6.

94 Said chapter is further amended by revising Code Section 18-4-8, relating to required
95 documents and service thereof, as follows:

96 "18-4-8.

97 (a) The plaintiff shall serve the garnishee, as provided in Code Section 9-11-4, or, when
98 the garnishment is filed in a magistrate court, the plaintiff may serve the garnishee by using
99 the constable of the magistrate court in the manner set forth in Code Section 9-11-4, with
100 a copy of the affidavit of garnishment, summons of garnishment, Notice to Defendant of
101 Right Against Garnishment of Money, Including Wages, and Other Property, and
102 Defendant's Claim Form. The plaintiff shall fill in the style of the case, except for the civil
103 action file number, and the garnishment court information on such notice and claim form.
104 Such notice and claim form are set forth in Code Section 18-4-82.

105 (b)(1) At any time after filing of an affidavit of garnishment but not ~~Not~~ more than three
106 business days after service of the summons of garnishment on the garnishee, the plaintiff
107 shall cause a copy of the affidavit of garnishment, a copy of the summons of garnishment,
108 a copy of the Notice to Defendant of Right Against Garnishment of Money, Including
109 Wages, and Other Property, and a copy of the Defendant's Claim Form as described in
110 subsection (a) of this Code section, using one of the following methods:

111 (A)(i) To be sent to the defendant at the defendant's last known address by:

112 (I) Regular mail; and

113 (II) Registered or certified mail or statutory overnight delivery, ~~return receipt~~
114 ~~requested.~~

115 (ii) A certificate of service or any other proof of the sending of the above documents
116 to the defendant, which may include but is not limited to copies of ~~The return receipt~~
117 ~~indicating receipt by the defendant,~~ the envelope bearing the official notification from
118 the United States Postal Service of the ~~defendant's refusal to accept~~ attempted or
119 actual delivery of such registered or certified mail, the envelope bearing the official
120 notification from a commercial firm of the ~~defendant's refusal to accept~~ attempted or
121 actual delivery of such statutory overnight delivery, or ~~an official~~ a written notice
122 from the United States Postal Service or a commercial firm, including but not limited
123 to printings or reproductions from the website of the United States Postal Service or
124 such commercial firm, of the ~~defendant's refusal to accept~~ attempted or actual delivery
125 of such registered or certified mail or statutory overnight delivery, shall be filed with
126 the clerk of the court in which the garnishment is pending.

127 (iii) The defendant's actual timely notice of the garnishment or the ~~The~~ defendant's
128 refusal to accept or failure to claim such registered or certified mail or statutory

129 overnight delivery addressed to such defendant shall ~~be deemed notice to such~~
 130 ~~defendant~~ satisfy all other requirements for service of notice in this Code section;

131 (B)(i) To be delivered personally to the defendant by:

132 (I) An individual who is not a party and is not younger than 18 years of age;

133 (II) An individual who has been appointed by the court to serve process or is a
 134 permanent process server;

135 (III) The sheriff of the county where the action is brought or where the defendant
 136 is found or by such sheriff's deputy;

137 (IV) The marshal or sheriff of the court or by such official's deputy;

138 (V) The constable of the magistrate court, when the garnishment is filed in a
 139 magistrate court, or by the constable's deputy; or

140 (VI) A certified process server as provided in Code Section 9-11-4.1.

141 (ii) A certification by the person making the delivery shall be filed with the clerk of
 142 the court in which the garnishment is pending; or

143 (C)(i) When the plaintiff, or plaintiff's attorney, states under oath that the defendant
 144 resides out of this state, has departed this state, or after due diligence cannot be found
 145 within this state, or has concealed his or her place of residence from the plaintiff, to
 146 ~~To~~ be sent to the defendant by regular mail at the address at which the defendant:

147 (I) Accepted service in the action resulting in the judgment;

148 (II) Identified as his or her residence in any pleading in the action resulting in the
 149 judgment; or

150 (III) Was served as shown on the return of service in the action resulting in the
 151 judgment ~~when it shall appear by affidavit that the defendant resides out of this~~
 152 ~~state, has departed this state, cannot, after due diligence, be found within this state;~~
 153 ~~or has concealed his or her place of residence from the plaintiff.~~

154 (ii) A certificate of such mailing shall be filed with the clerk of the court in which the
 155 garnishment is pending by the person mailing such notice.

156 (2) The methods of notification specified in this subsection shall be cumulative and may
 157 be used in any sequence or combination. When it appears that a plaintiff has reasonably,
 158 diligently, and in good faith attempted to use one method, another method thereafter may
 159 be utilized; for the time during which the attempt was being made, the time limit shall be
 160 tolled for the subsequent method.

161 (3) No money or other property paid or delivered to the court by the garnishee shall be
 162 distributed nor shall any judgment be rendered against the garnishee until:

163 (A) Ten days have elapsed from the date of filing a certificate of compliance with at
 164 least one method of notification provided by this subsection; and

165 (B) If a garnishee answer was filed:

- 166 (i) Twenty days have elapsed from the filing of the garnishee's answer without a
 167 claim having been filed by any defendant or third party and without a traverse having
 168 been filed by the plaintiff; or
 169 (ii) All traverses filed prior to the twenty-first day from the filing of the garnishee's
 170 answer have been adjudicated and all claims have been adjudicated."

171 **SECTION 7.**

172 Said chapter is further amended by revising Code Section 18-4-9, relating to periodic
 173 summonses and original filing date limiting extension, as follows:

174 "18-4-9.

175 (a) Summonses of garnishment may issue from time to time until the judgment is paid or
 176 the garnishment proceeding is otherwise terminated.

177 (b) Except in a continuing garnishment or continuing garnishment for support, no ~~No~~ new
 178 summons of garnishment on the same affidavit of garnishment shall be issued after two
 179 years from the date of the original filing of such affidavit. After two years from such
 180 original filing date and provided that no unadjudicated claims, traverses, appeals, motions,
 181 or other pleadings remain before the court, the garnishment proceeding, other than a
 182 continuing garnishment or continuing garnishment for support, based on such affidavit
 183 shall automatically stand dismissed unless there are funds remaining in the registry of the
 184 court or a new summons of garnishment has been issued in the preceding 30 days. In the
 185 event funds remain in the registry at such time and the plaintiff has filed its certificate of
 186 compliance pursuant to subparagraph (b)(3)(A) of Code Section 18-4-8 and has made its
 187 application for disbursement, all such funds will be deemed abandoned by the defendant
 188 and disbursed to the plaintiff, notwithstanding any other provision of this Code section."

189 **SECTION 8.**

190 Said chapter is further amended by revising subsection (b) of and by adding a new subsection
 191 to Code Section 18-4-10, relating to responses by garnishee and judgment by default, as
 192 follows:

193 "(b) The summons of garnishment shall be directed to the garnishee, commanding the
 194 garnishee to respond and state what money or other property is subject to garnishment.
 195 Except as provided in subsection (c) of this Code section and Articles 2 and 3 of this
 196 chapter, the garnishee's answer shall be filed with the court issuing the summons not sooner
 197 than 30 days and not later than 45 days after service of the summons, and the money or
 198 other property subject to garnishment shall be ~~paid~~ sent to or delivered to the court
 199 concurrently with the sending or filing of such garnishee's answer."

200 "(d) When the garnishee is a financial institution and the garnishment is pursuant to
 201 Article 2 or 3 of this chapter, any accounts of the defendant shall be subject to the process
 202 of garnishment only for the garnishment period described in paragraph (2) of subsection
 203 (c) of Code Section 18-4-4, and any funds due to be paid to the garnishment court through
 204 such garnishment period may be held and delivered with the first garnishee answer
 205 pursuant to Code Section 18-4-42."

206 **SECTION 9.**

207 Said chapter is further amended by revising subsection (a) of and by adding a new subsection
 208 to Code Section 18-4-11, relating to garnishee answer and property located in area with
 209 restricted access, as follows:

210 "(a) Within the time prescribed by Code Section 18-4-10, the garnishee shall file a
 211 garnishee answer. ~~Concurrently~~ ~~Along~~ with the garnishee's answer, the garnishee shall ~~pay~~
 212 send or deliver to the court the money or other property admitted in the garnishee's answer
 213 to be subject to garnishment except, when the conditions of subsection (d) of Code
 214 Section 18-4-5 have been satisfied, the specified amounts of money in each answer shall,
 215 instead, be paid directly to the plaintiff."

216 "(f) A garnishee may elect to file, and a court shall not reject, a physical answer or answers
 217 of garnishment even in courts otherwise subject to electronic filing requirements."

218 **SECTION 10.**

219 Said chapter is further amended by revising Code Section 18-4-12, relating to entity as
 220 garnishee, as follows:

221 "18-4-12.

222 (a) When a garnishment proceeding is filed in a court under any provision of this chapter
 223 involving an entity as garnishee, the execution and filing of a garnishee answer may be
 224 done by an entity's authorized officer, ~~or employee,~~ or any individual or entity engaged by
 225 such garnishee for the purpose of processing payrolls or accounts payable and shall not
 226 constitute the practice of law. If a claim or traverse is filed to such entity's garnishee
 227 answer in a court of record, an attorney shall be required to represent such entity in further
 228 garnishment proceedings.

229 (b) An entity's payment into court of any money or other property of the defendant, or
 230 money or other property which is admitted to be subject to garnishment, may be done by
 231 an entity's authorized officer, ~~or employee,~~ or any individual or entity engaged by such
 232 garnishee for the purpose of processing payrolls or accounts payable and shall not
 233 constitute the practice of law."

234

SECTION 11.

235 Said chapter is further amended by revising subsection (d) of Code Section 18-4-14, relating
 236 to recovery of reasonable expenses, recovery of actual expenses, and refunds, as follows:

237 "(d) Nothing in this Code section shall limit the reimbursement of costs incurred by a
 238 financial institution as provided in Code Section 7-1-237, nor interfere with, exclude, or
 239 supplant any contractual arrangement for a garnishee to reimburse itself for costs or fees
 240 of legal processing due to a garnishment."

241

SECTION 12.

242 Said chapter is further amended by revising subsections (a) and (d) of and by adding a new
 243 subsection to Code Section 18-4-15, relating to parties to garnishment, basis for exemption,
 244 form, and challenge to garnishment, as follows:

245 "(a) A garnishment proceeding is an action between the plaintiff and garnishee; provided,
 246 however, that at any time before a judgment is entered, an order to disburse funds is issued,
 247 or before money or other property subject to garnishment is distributed by the court,
 248 whichever occurs first, the defendant may become a party to the garnishment by filing a
 249 claim with the clerk of court and may use the form set forth in Code Section 18-4-82. A
 250 defendant's claim shall assert the basis upon which he or she claims that his or her money
 251 or other property is exempt from garnishment. Money or other property may be exempt
 252 from garnishment for a variety of reasons, including, but not limited to, the limitations on
 253 garnishment as provided in Code Sections 18-4-5 and 18-4-53, exemptions as provided in
 254 Code Section 18-4-6, the plaintiff not having a judgment against the defendant, the amount
 255 claimed due by the plaintiff being erroneous, such money or other property being subject
 256 to a claim held by a third party that is superior to the judgment described in the affidavit
 257 of garnishment, or other legal or statutory defenses. Even when earnings are held at a
 258 financial institution, such money may be exempt from garnishment due to the limitations
 259 on garnishment as provided in Code Sections 18-4-5 and 18-4-53, exemptions as provided
 260 in Code Section 18-4-6, or other reasons."

261 "(d) Except as provided in subsection (h) of this Code section, upon ~~Upon~~ the filing of the
 262 defendant's claim, a judge of the court in which the garnishment is pending shall order a
 263 hearing to be held not more than ten days from the date the claim is filed. The form for the
 264 order for such hearing is set forth in Code Section 18-4-83. Such hearing shall be available
 265 to the defendant as a matter of right after filing his or her claim, and no further summons
 266 of garnishment shall issue nor shall any money or other property paid or delivered to the
 267 court as subject to garnishment be disbursed until the hearing shall be held."

268 "(h) A court may decline to order a hearing upon, and may issue a denial of, any
 269 defendant's claim which is filed after the dismissal of a garnishment action against such

270 defendant. Except in a continuing garnishment or continuing garnishment for support, a
 271 court may decline to order a hearing upon, and may issue a denial of, any claim filed by a
 272 defendant which comes after a judgment is entered, an order to disburse funds is issued,
 273 or money or other property subject to garnishment is distributed by the court. No claim
 274 may succeed upon any basis which was already raised and adjudicated, or which was
 275 capable of being raised and adjudicated, in any claim previously made in the same
 276 garnishment action by the same defendant."

277 **SECTION 13.**

278 Said chapter is further amended by revising Code Section 18-4-16, relating to plaintiff filing
 279 traverse, to read as follows:

280 "18-4-16.

281 (a) Within 20 days after the plaintiff has been served with the garnishee's answer, the
 282 plaintiff may file a traverse stating that the garnishee's answer is untrue or legally
 283 insufficient. Such statement places in issue all questions of law and fact concerning the
 284 garnishee's answer. The form for a plaintiff's traverse is set forth in Code Section 18-4-87.

285 (b) The plaintiff may also file a traverse within 30 days after the plaintiff has been served
 286 with a garnishee's motion to modify default judgment pursuant to Code Section 18-4-24
 287 or 18-4-43, stating that the motion is untrue or legally insufficient, and by doing so places
 288 in issue all questions of law and fact concerning the contents of such motion to modify
 289 default judgment. In all traverses under this subsection, a plaintiff bears the burden of
 290 proof."

291 **SECTION 14.**

292 Said chapter is further amended by revising Code Section 18-4-18, relating to priority of
 293 conflicting claims to money or property, as follows:

294 "18-4-18.

295 (a) When money or other property in court is subject to a third-party claim or to more than
 296 one garnishment case, the party with the oldest entered judgment, subject to subsection (b)
 297 of this Code section, shall have priority to such money or other property and any interested
 298 party to any one of the garnishment cases may make a motion to the court where such
 299 money or other property has been deposited for the distribution of such money or other
 300 property. Each party of interest in each case and the clerk of court shall be served with a
 301 copy of the motion. Upon hearing the motion, the court shall enter an order directing that
 302 the clerk be paid the court cost of each garnishment proceeding first, and all remaining
 303 money or other property shall be distributed in accordance with the laws governing the
 304 relative priority of claims, judgments, and liens.

305 (b) To be given priority over the judgment on which the garnishment is based, any older,
 306 entered judgment must:
 307 (1) If entered more than 90 days before the filing of the garnishment action, have been
 308 the basis of an attempted execution on the judgment or other enforcement action within
 309 the five years prior to the filing of the garnishment action; or
 310 (2) If entered 90 days or less before the filing of the garnishment action, have been
 311 awarded by the trial court by a manner other than consent of the defendant."

312 **SECTION 15.**

313 Said chapter is further amended by revising subsections (c) and (d) of Code Section 18-4-19,
 314 relating to order of trial, introduction of evidence, and expenses, as follows:

315 "(c) When the defendant, garnishee, or third-party claimant prevails upon the trial of his
 316 or her claim:

317 (1) That the plaintiff does not have a judgment against the defendant or that the plaintiff's
 318 affidavit of garnishment is untrue or is legally insufficient, the garnishment case shall be
 319 dismissed by the court, and any money or other property belonging to the defendant in
 320 the possession of the court shall be restored to the defendant unless another claim or
 321 traverse thereto has been filed;

322 (2) That the amount shown to be due on the plaintiff's affidavit of garnishment is
 323 incorrect, the court ~~may~~ shall allow the summons of garnishment to be amended to the
 324 amount proven to be owed, and if such amount is less than the amount shown to be due
 325 by the plaintiff, any money or other property belonging to the defendant in the possession
 326 of the court in excess of the amount due shall be restored to the defendant unless another
 327 claim or traverse thereto has been filed;

328 (3) That the money or other property belonging to the defendant in the possession of the
 329 court is exempt from garnishment, such exempt money or other property shall be restored
 330 directly to the defendant. The court shall order such restoration within 48 hours; and

331 (4) Based on any legal or statutory defense or that money or other property in the
 332 possession of the court may be subject to a claim held by a third party that is superior to
 333 the judgment described in the affidavit of garnishment, the court shall determine the
 334 disposition of the money or other property belonging to the defendant in the possession
 335 of the court.

336 (d) On the trial of the plaintiff's traverse, if the court finds ~~the~~:

337 (1) The garnishee has failed to respond properly to the summons of garnishment, the
 338 court shall disallow any expenses demanded by the garnishee and shall enter a judgment
 339 for any money or other property the court finds subject to garnishment which the
 340 garnishee has failed to pay or deliver to the court or to the plaintiff; provided, however,

341 that the total amount of such judgment shall not exceed the amount shown to be due by
 342 the plaintiff, together with the costs of the garnishment proceeding; or
 343 (2) The plaintiff's traverse lacked reasonable justification, the court shall award the
 344 garnishee a judgment against the plaintiff for its attorney's fees incurred in connection
 345 with the traverse."

346 **SECTION 16.**

347 Said chapter is further amended by revising Code Section 18-4-20, relating to failure to file
 348 claim or traverse in timely manner, as follows:

349 "18-4-20.

350 (a) When no claim has been filed and no traverse has been filed within 20 days after the
 351 garnishee's answer is filed:

352 (1) If money is paid or delivered to the court by the garnishee, the clerk of the court shall
 353 pay the money to the plaintiff or the plaintiff's attorney upon application, and the
 354 garnishee shall be automatically discharged from further liability with respect to the
 355 summons of garnishment so answered;

356 (2) If property is delivered to the court by the garnishee, the sheriff, marshal, constable,
 357 or like officer of the court shall sell the property in the manner provided by law for the
 358 sale of property levied under an execution, and the garnishee shall be automatically
 359 discharged from further liability with respect to the summons of garnishment so
 360 answered. The proceeds of such sale shall be paid or delivered to the plaintiff or the
 361 plaintiff's attorney upon application; or

362 (3) If money or other property admitted to be subject to the garnishment is not paid or
 363 delivered to the court, judgment shall be entered for the plaintiff and against the garnishee
 364 for such money or other property and execution shall issue on the judgment.

365 (b) The application described under paragraphs (1) and (2) of subsection (a) of this Code
 366 section may be made at any time concurrent with, or following the filing of the
 367 garnishment action, and need only be made once in any such action regardless of the
 368 number of answers filed."

369 **SECTION 17.**

370 Said chapter is further amended by revising Code Section 18-4-23, relating to grounds for
 371 relief from liability, as follows:

372 "18-4-23.

373 (a) A garnishee may be relieved from liability for failure to file a garnishee answer if the
 374 plaintiff failed to provide the information required by paragraph (2) of subsection (b) of
 375 Code Section 18-4-7 that would reasonably enable the garnishee to respond properly to the

376 summons of garnishment and a good faith effort to locate the requested property was made
 377 by the garnishee based on the information provided by the plaintiff. In determining
 378 whether a garnishee may be relieved of liability, the court ~~shall~~ may consider any
 379 information or circumstances, including but not limited to ~~and compare~~ the accuracy and
 380 quantity of the information supplied by the plaintiff pursuant to paragraph (2) of
 381 subsection (b) of Code Section 18-4-7, ~~with~~ the manner in which such garnishee maintains
 382 and locates its records, the compliance by such garnishee with its own procedures, and the
 383 conformity of the record systems and procedures with reasonable commercial standards
 384 prevailing in the area in which such garnishee is located.

385 (b) A garnishee ~~and a plaintiff~~ shall not be subject to liability to any party or nonparty to
 386 the garnishment at issue arising from the attachment of a lien or the freezing, payment, or
 387 delivery into court of money or other property reasonably believed to be that of the
 388 defendant if such attachment, freezing, payment, or delivery is reasonably required by a
 389 good faith effort to comply with the summons of garnishment or with a modification of
 390 continuing garnishment by use of the form in Code Section 18-4-90. In determining
 391 whether such compliance by a garnishee is reasonable, the court ~~shall~~ may consider any
 392 information or circumstances, including but not limited to ~~and compare~~ the accuracy and
 393 quantity of the information supplied by the plaintiff pursuant to paragraph (2) of
 394 subsection (b) of Code Section 18-4-7, ~~with~~ the manner in which such garnishee maintains
 395 and locates its records, the compliance by such garnishee with its own procedures, and the
 396 conformity of the record systems and procedures with reasonable commercial standards
 397 prevailing in the area in which such garnishee is located.

398 (c) A plaintiff shall not be subject to liability to any party or nonparty to the garnishment
 399 at issue arising from the attachment of a lien or the freezing, payment, or delivery into
 400 court of money or other property by a garnishee where the plaintiff's summons of
 401 garnishment and any attachments thereto include identifying information reasonably
 402 believed to be that of the defendant or defendants in the judgment upon which the
 403 garnishment is based.

404 (d) A garnishee shall not be liable to any party or nonparty to the garnishment at issue
 405 arising from the attachment of a lien or the freezing, payment, or delivery into court of
 406 money or other property where such liability is based on any allegation disputing, or
 407 subsequent determination denying, the validity of such garnishment as described in
 408 subsection (d) of Code Section 18-4-7.

409 ~~(c)~~(e)(1) As used in this subsection, the term:

410 (A) 'Association account' means any account or safe-deposit box or similar property
 411 maintained by a corporation, statutory close corporation, limited liability company,
 412 partnership, limited partnership, limited liability partnership, foundation, trust, national,

413 state, or local government or quasi-government entity, or other incorporated or
414 unincorporated association.

415 (B) 'Fiduciary account' means any account or safe-deposit box maintained by any party
416 in a fiduciary capacity for any other party other than the defendant in garnishment.
417 Without limiting the foregoing, such term shall include any trust account as defined in
418 Code Section 7-1-810, any account created pursuant to a transfer governed by Code
419 Section 44-5-119, and any agency account or safe-deposit box governed by a power of
420 attorney or other written designation of authority.

421 (2)(A) A garnishee shall not be liable for failure to pay or deliver to the court money
422 or other property in an association account that may be subject to garnishment by
423 reason of the fact that a defendant is an authorized signer on such association account,
424 unless the summons of garnishment alleges that the association account is being used
425 by the defendant for an improper or unlawful purpose.

426 (B) A garnishee shall not be liable for failure to pay or deliver to the court money or
427 other property in a fiduciary account that may be subject to garnishment if such
428 fiduciary account specifically is exempted from garnishment as set forth in Code
429 Section 18-4-6.

430 (C) A garnishee shall not be liable for failure to pay or deliver to the court money or
431 other property in a fiduciary account that may be subject to garnishment by reason of
432 the fact that a defendant is a fiduciary of the fiduciary account, unless the summons of
433 garnishment is against the defendant in the defendant's capacity as a fiduciary of the
434 fiduciary account or the summons of garnishment alleges that the fiduciary account is
435 being used by the defendant for an improper or unlawful purpose."

436 **SECTION 18.**

437 Said chapter is further amended by revising Code Section 18-4-24, relating to modification
438 of default judgment, and burden of proof, as follows:

439 "18-4-24.

440 (a) When a default judgment is rendered against a garnishee under Code Section 18-4-21,
441 18-4-22, or 18-4-43, the plaintiff shall serve the garnishee, as provided in Code
442 Section 9-11-4, or, when the garnishment is filed in a magistrate court, the plaintiff may
443 serve the garnishee by using the constable of the magistrate court in the manner set forth
444 in Code Section 9-11-4, with a copy of such default judgment. On a motion filed not later
445 than 90 days from the date the garnishee was served with such default judgment, the
446 garnishee may, upon payment of ~~all accrued costs of court~~ any costs paid by the plaintiff
447 to the clerk of court for the initiation of the action, and service on the garnishee, have such
448 default judgment modified so that the amount of such default judgment shall be reduced

449 to an amount equal to ~~the greater of \$50.00 or \$50.00 plus 100 percent of the amount by~~
 450 ~~which the garnishee was indebted to the defendant from the time of service of the summons~~
 451 ~~of garnishment, including all money or other property belonging to the defendant which~~
 452 ~~came into the garnishee's hands:~~

453 (1) For garnishments pursuant to Article 1 of this chapter, from the time of service of the
 454 summons of garnishment through and including the last day of the applicable
 455 garnishment period, less any exemption allowed the defendant and any funds paid by the
 456 garnishee into the court during the time for which an answer was due and not filed; or

457 (2) For garnishments pursuant to Articles 2 and 3 of this chapter, from the time of service
 458 of the summons of garnishment or from the last timely answer, whichever is later,
 459 through and including the last day on which a timely garnishee answer could have been
 460 made for all money or other property belonging to the defendant which came into the
 461 garnishee's hands from the time of service of the summons through and including the last
 462 day on which a timely answer could have been made and filed, less any exemption
 463 allowed the defendant and any funds paid by the garnishee into the court during the time
 464 for which an answer was due and not filed.

465 (b) On the trial of a motion to modify a default judgment, the burden of proof shall be
 466 upon any plaintiff who objects to the timeliness of the motion to establish that such motion
 467 was not filed within the time provided for by this Code section."

468

SECTION 19.

469 Said chapter is further amended by revising Code Section 18-4-40, relating to the right to
 470 continuing garnishment process and applicable provisions, as follows:

471 "18-4-40.

472 (a) In addition to garnishment proceedings otherwise available under this chapter, in all
 473 cases when a money judgment was obtained in a court of this state or a federal court or is
 474 being enforced in this state as provided in Article 5 of Chapter 12 of Title 9, the 'Uniform
 475 Foreign-Country Money Judgments Recognition Act,' or Article 6 of Chapter 12 of Title 9,
 476 the 'Uniform Enforcement of Foreign Judgments Law,' a plaintiff shall be entitled to the
 477 process of continuing garnishment against any garnishee who is an employer of or under
 478 periodic obligations for payment to the defendant against whom the judgment has been
 479 obtained.

480 (b) Unless otherwise specifically provided in this article, Article 1 of this chapter shall
 481 apply to this article."

482

SECTION 20.

483 Said chapter is further amended by revising subsection (a) of Code Section 18-4-41, relating
484 to affidavit of continuing garnishment, summons, notice of exemptions, and form, as follows:

485 "(a) In addition to the information required by subsection (a) of Code Section 18-4-3, an
486 affidavit of continuing garnishment shall state that the plaintiff believes that the garnishee
487 is or may be an employer of or under periodic obligations for payment to the defendant and
488 subject to continuing garnishment."

489

SECTION 21.

490 Said chapter is further amended by revising Code Section 18-4-42, relating to filing and
491 contents of summons of continuing garnishment and filing of subsequent answers, as
492 follows:

493 "18-4-42.

494 (a) As used in this Code section, the term 'previous garnishee answer date' means the date
495 upon which the immediately preceding garnishee answer was filed.

496 (b) If the garnishee owes the defendant any sum for wages earned as the garnishee's
497 employee or any sum for goods or services periodically provided to the garnishee, the
498 garnishee answer shall state specifically when the ~~wages were~~ sum was earned by the
499 defendant, whether the ~~wages were~~ sum was earned on a daily, weekly, or monthly basis,
500 ~~the any~~ rate of pay and hours worked, and the basis for computation of earnings.

501 (c) The summons of continuing garnishment shall be directed to the garnishee,
502 commanding and obligating the garnishee:

503 (1) To file a first garnishee answer with the court issuing such summons not sooner
504 than 30 days and not later than 45 days after service of the summons of continuing
505 garnishment, for the period of time from the date of service through and including the day
506 of the first garnishee answer;

507 (2) To file subsequent garnishee answers with such court for the remaining period
508 covered by the summons of continuing garnishment; and

509 (3) To ~~accompany all such garnishee answers with~~ send any money subject to continuing
510 garnishment concurrently with each garnishee answer.

511 (d)~~(f)~~ Subsequent garnishee answers shall be filed not later than 45 days after the
512 previous garnishee answer date stating what money of the defendant is subject to
513 continuing garnishment from the previous garnishee answer date through and including
514 the date on which the next garnishee answer is filed.

515 ~~(2) Subsequent garnishee answers shall not be required on a summons of continuing~~
516 ~~garnishment if the preceding garnishee answer filed states what money of the defendant~~
517 ~~is subject to continuing garnishment from the previous garnishee answer date to and~~

518 ~~including the one hundred seventy-ninth day after service of the summons of continuing~~
 519 ~~garnishment.~~

520 ~~(3) Notwithstanding the other provisions of this subsection, the last garnishee answer~~
 521 ~~shall be filed not later than the one hundred ninety-fifth day after service of the summons~~
 522 ~~of continuing garnishment.~~

523 (e) The summons of continuing garnishment shall state that if the garnishee fails to file a
 524 garnishee's answer to such summons in a timely manner, a judgment by default shall be
 525 entered against the garnishee for the amount remaining due on a judgment as shown in the
 526 plaintiff's affidavit of continuing garnishment.

527 (f)(1) If the employment relationship or obligation for periodic payment between the
 528 garnishee and the defendant does not exist at the time of service of the summons of
 529 continuing garnishment, the garnishee shall state in the garnishee answer that such
 530 relationship does not exist and may immediately file the garnishee's answer; provided,
 531 however, that such garnishee's answer shall be filed not later than 45 days after service
 532 of the summons of continuing garnishment.

533 ~~(2) When the defendant has been an employee of the garnishee, and if the defendant is~~
 534 ~~no longer employed by the garnishee, the garnishee may immediately file the garnishee's~~
 535 ~~answer; provided, however, that such garnishee's answer shall be filed not later than 45~~
 536 ~~days after service of the summons of continuing garnishment.~~

537 ~~(3) If the employment relationship or obligation for periodic payment between the~~
 538 ~~garnishee and the defendant terminates on or after service of the summons of continuing~~
 539 ~~garnishment, the garnishee shall state in the garnishee answer that such relationship has~~
 540 ~~been terminated, giving the date of termination, and may immediately file the garnishee's~~
 541 ~~answer; provided, however, that such garnishee's answer shall be filed not later than 45~~
 542 ~~days after service of the summons of continuing garnishment or 45 days after the~~
 543 ~~previous garnishee answer date, whichever is later.~~

544 ~~(3) If, on or after service of the summons of continuing garnishment, the most recent two~~
 545 ~~preceding garnishee answers filed at least 30 days apart advise that no payments are owed~~
 546 ~~the defendant, the garnishee may elect to file a final garnishee answer, identified as such;~~
 547 ~~provided, however, that such garnishee's answer shall be filed not later than 45 days after~~
 548 ~~service of the summons of continuing garnishment or 45 days after the previous garnishee~~
 549 ~~answer date, whichever is later.~~

550 ~~(4) Upon the termination of employment of the defendant by the garnishee, the garnishee~~
 551 ~~shall be required to file a final garnishee answer stating the date of the defendant's~~
 552 ~~termination.~~

553 (g) When a garnishee answer is made pursuant to subsection (f) of this Code section, no
 554 claim has been filed, and no traverse has been filed within 20 days after such garnishee

555 answer is ~~filed~~ served on the plaintiff, the garnishee shall be discharged from further
 556 liability and obligation in the same manner as set forth under Code Section 18-4-20 for that
 557 summons with respect to the period of continuing garnishment remaining after the
 558 employment or periodic payment relationship is terminated, or a final garnishee answer is
 559 filed.

560 (h) The form for a garnishee's answer to a continuing garnishment is set forth in Code
 561 Section 18-4-86."

562 **SECTION 22.**

563 Said chapter is further amended by revising subsection (e) of Code Section 18-4-54, relating
 564 to application of money paid into court, additional garnishee answers, and termination, as
 565 follows:

566 "(e) Upon the termination of employment of or periodic obligations for payment to the
 567 defendant by the garnishee, the garnishee shall be required to file a final garnishee answer
 568 stating the date of the defendant's termination. After any two preceding, timely garnishee
 569 answers filed at least 30 days apart advise that no payments are owed the defendant, the
 570 garnishee may elect to file a final garnishee answer, identified as such; provided, however,
 571 that such garnishee's answer shall be filed not later than 45 days after service of the
 572 summons of continuing garnishment or 45 days after the previous garnishee answer date,
 573 whichever is later."

574 **SECTION 23.**

575 Said chapter is further amended by revising Code Section 18-4-55, relating to termination
 576 of continuing garnishment for support and garnishee's reliance upon information in affidavit,
 577 as follows:

578 "18-4-55.

579 The continuing garnishment for support described in this article shall attach for so long as
 580 the defendant is employed by or owed periodic payments from the garnishee or a final
 581 garnishee answer is served on the plaintiff and not traversed within 20 days and shall not
 582 terminate until the original arrearage is retired and all support payments are current. The
 583 garnishee may rely upon the information as to the termination date of the duty of support
 584 of any individual claimed in the affidavit of continuing garnishment for support, the
 585 amount of the duty of support to be paid, any sums paid by the defendant between the date
 586 of the filing of such affidavit and the date of the initial garnishee answer, and the amount
 587 of the original arrearage existing as of the date of such affidavit, unless the defendant files
 588 a claim against such affidavit or the garnishee's answer and the court enters any finding
 589 otherwise."

590

SECTION 24.

591 Said chapter is further amended by revising subsection (a) of Code Section 18-4-70, relating
592 to the required use of forms, as follows:

593 "(a) For the purpose of this chapter, the forms contained in this article shall be required to
594 be used; provided, however, that a party may use its own format so long as it contains all
595 of the information in the form. A defendant may use the form provided in Code
596 Section 18-4-82 to file a claim or may use the defendant's own pleading. When a case
597 involves more than one plaintiff, ~~or defendant,~~ or garnishee, or necessitates the inclusion
598 of additional information, the form may be expanded to allow for the information
599 pertaining to all parties and such additional information to be displayed. Each summons
600 of garnishment issued in an action shall display in the caption the name of the garnishee
601 on whom that summons is to be served."

602

SECTION 25.

603 Said chapter is further amended by revising Code Section 18-4-72, relating to affidavit of
604 continuing garnishment, as follows:

605 "18-4-72.

606 **'IN THE _____ COURT OF _____ COUNTY**

607 **STATE OF GEORGIA**

608)

609 **Plaintiff:**)

610 _____)

611 Name)

612)

613 **Plaintiff's contact information:**)

614 _____)

615 Name)

616 _____) **Civil Action File No.**

617 Street Address) _____

618 _____)

619 City State ZIP Code)

620 _____)

621 E-mail Address)

622 _____)

623 Phone Number)

624 _____)

625 Bar Number)

626)
 627 v.)
 628)
 629 **Defendant:**)
 630 _____)
 631 Name)
 632 _____)
 633 Street Address)
 634 _____)
 635 City State ZIP Code)
 636)
 637 **Garnishee:**)
 638 _____)
 639 Name)
 640 _____)
 641 Street Address)
 642 _____)
 643 City State ZIP Code)

644 **AFFIDAVIT OF CONTINUING GARNISHMENT**

645 **DO NOT USE THIS FORM FOR A CONTINUING**

646 **GARNISHMENT**

647 **FOR CHILD SUPPORT OR ALIMONY.**

648 **SEE O.C.G.A. § 18-4-73.**

649 Personally appeared _____, who on oath says:

650 (Print name)

651 1. I am the (Plaintiff) (Attorney at Law for Plaintiff) (Agent for Plaintiff). [Circle one]

652 2. The Plaintiff obtained a judgment against the Defendant in Case Number _____

653 in the _____ Court of _____ County, _____,

654 State

655 and no agreement requires forbearance from the garnishment which is applied for

656 currently.

657 3. \$_____ is the balance due, which consists of the sum of \$_____

658 Principal, \$_____ Postjudgment interest, and \$_____ Other (e.g.,

659 prejudgment interest, attorney's fees, costs [exclusive of the cost of this action]).

660 4. Upon the Affiant's personal knowledge or belief, the sum stated herein is unpaid.

661 5. The Affiant believes that the Garnishee is an employer of or under periodic obligations

662 for payment of funds to the Defendant.

663 This _____ day of _____, 20____.

664 _____

665 Affiant

666 _____

667 Print name of Affiant

668 Sworn to and subscribed before me this _____ day

669 of _____, 20____.

670 _____

671 Notary Public or Deputy Clerk of Court"

672 **SECTION 26.**

673 Said chapter is further amended by revising Code Section 18-4-73, relating to affidavit of
674 continuing garnishment for support, as follows:

675 "18-4-73.

676 **'IN THE _____ COURT OF _____ COUNTY**

677 **STATE OF GEORGIA**

678)

679 **Plaintiff:**)

680 _____)

681 Name)

682)

683 **Plaintiff's contact information:**)

684 _____)

685 Name)

686 _____) **Civil Action File No.**

687 Street Address) _____

688 _____)

689 City State ZIP Code)

690 _____)

691 E-mail Address)

692 _____)
 693 Phone Number)
 694 _____)
 695 Bar Number)
 696)
 697 v.)
 698)
 699 **Defendant:**)
 700 _____)
 701 Name)
 702 _____)
 703 Street Address)
 704 _____)
 705 City State ZIP Code)
 706)
 707 **Garnishee:**)
 708 _____)
 709 Name)
 710 _____)
 711 Street Address)
 712 _____)
 713 City State ZIP Code)

714 **AFFIDAVIT OF CONTINUING GARNISHMENT FOR SUPPORT**

715 Personally appeared _____, who on oath says:
 716 (Print name)

- 717 1. I am the (Plaintiff) (Attorney at Law for Plaintiff) (Agent for Plaintiff). [Circle one]
 718 2. The Plaintiff obtained a judgment against the Defendant in Case Number _____
 719 in the _____ Court of _____ County, _____,
 720 State

721 and no agreement requires forbearance from the garnishment which is applied for
 722 currently.

- 723 3. The Affiant states that the Defendant is in arrears on the obligation for support in an
 724 amount equal to or in excess of one month's obligation as decreed in the judgment for
 725 support and provides the following information:

726 \$_____ is the amount of arrearage which exists under the judgment as of the
727 execution of this affidavit.

728 **Check one of the boxes below and complete the requested information:**

729 A. Periodic support is owed for one obligee, or the judgment sets forth a total amount
730 of periodic support for multiple obligees as follows:

731 \$ _____ is the total amount of periodic support due for _____,
732 _____ Name of obligee
733 _____, and _____. Such periodic

734 Name of obligee Name of obligee

735 support is payable on a _____ basis.

736 E.g., weekly, monthly

737 The termination date of the obligation for periodic support is _____.

738 _____ Date

739 B. Periodic support is owed for multiple obligees, and the judgment sets forth a
740 different amount of periodic support for each obligee as follows:

741 \$ _____ is the total amount of periodic support due for _____,
742 _____ Name of obligee

743 payable on a _____ basis, and the termination date of such

744 E.g., weekly, monthly

745 obligation is _____.

746 _____ Date

747 \$ _____ is the total amount of periodic support due for _____,
748 _____ Name of obligee

749 payable on a _____ basis, and the termination date of such

750 E.g., weekly, monthly

751 obligation is _____.

752 _____ Date

753 \$ _____ is the total amount of periodic support due for _____,
754 _____ Name of obligee

755 payable on a _____ basis, and the termination date of such

756 E.g., weekly, monthly

757 obligation is _____.

758 _____ Date

759 4. Check this box and attach a certified copy of the judgment for support hereto.

760 5. Upon the Affiant's personal knowledge or belief, the sum stated herein is unpaid.

761 6. The Affiant believes that the Garnishee is an employer of or under periodic obligations
762 for payment of funds to the Defendant.

763 This _____ day of _____, 20____.

764 _____
765 Affiant
766 _____
767 Print name of Affiant

768 Sworn to and subscribed before me this _____ day
769 of _____, 20____.
770 _____
771 Notary Public or Deputy Clerk of Court"

772 **SECTION 27.**

773 Said chapter is further amended by revising Code Section 18-4-74, relating to summons of
774 garnishment, as follows:

775 "18-4-74.

776 **'IN THE _____ COURT OF _____ COUNTY**
777 **STATE OF GEORGIA**

778)

779 **Plaintiff:**)

780 _____)

781 Name)

782)

783 **Plaintiff's contact information:**)

784 _____)

785 Name)

786 _____) **Civil Action File No.**

787 Street Address) _____

788 _____)

789 City State ZIP Code)

790 _____)

791 E-mail Address)

792 _____)

793 Phone Number)

794 _____)
795 Bar Number)
796 _____)
797 v.)
798 _____)
799 **Defendant:**) **Garnishment Court information:**
800 _____) _____
801 Name) Street Address
802 _____) _____, Georgia _____
803 Street Address) City ZIP Code
804 _____) _____
805 City State ZIP Code) Phone Number
806 _____)
807 **Garnishee:**)
808 _____)
809 Name)
810 _____)
811 Street Address)
812 _____)
813 City State ZIP Code)

814 **SUMMONS OF GARNISHMENT**

815 Check this box if this is a garnishment for child support or alimony. If this is
816 intended to be a continuing garnishment for support, use the form set forth in
817 O.C.G.A. § 18-4-80.

818 **TO THE ABOVE-NAMED GARNISHEE:**

819 Total amount claimed due by the Plaintiff \$ _____
820 Plus court costs due on this summons \$ _____
821 Total garnishment claim \$ _____

822 **COURT OF JUDGMENT** _____

823 **JUDGMENT CASE NO.** _____

824 **YOU ARE HEREBY COMMANDED** to immediately hold all money, including wages,
825 and other property, except what is known to be exempt, including property in safe-deposit

826 boxes or similar property that you hold, belonging to the Defendant or obligations owed
 827 to the Defendant named above beginning on the day of service of this summons and
 828 including the next 29 days. You are **FURTHER COMMANDED** to file your answer, in
 829 writing, not sooner than 30 days and not later than 45 days from the date you were served
 830 with this summons, with the Clerk of this Court and serve a copy of your answer upon the
 831 Plaintiff or Plaintiff's Attorney named above and the Defendant named above, or the
 832 Defendant's Attorney, if known, at the time of making such answer. Your answer shall
 833 state what money, including wages, or other property, except what is known to be exempt,
 834 belonging to the Defendant or obligations owed to the Defendant you hold beginning on
 835 the day of service of this summons and including the next 29 days. Money, including
 836 wages, or other property admitted in an answer to be subject to garnishment must be **paid**
 837 sent or delivered to the Court concurrently with your answer.

838 If, in answering this summons, you state that the property of the Defendant includes
 839 property in a safe-deposit box or similar property, you shall answer to the Court issuing this
 840 summons as to the existence of such safe-deposit box or similar property and shall restrict
 841 access to any contents of such safe-deposit box or similar property until further order of
 842 such Court regarding the disposition of such contents or 120 days from the date of filing
 843 your answer to this summons unless such time has been extended by the Court, whichever
 844 is sooner.

845 Should you fail to file a Garnishee Answer as required by this summons, a judgment by
 846 default will be rendered against you for the amount remaining due on a judgment as shown
 847 in the Plaintiff's Affidavit of Garnishment.

848 **WITNESS**, the Honorable _____, Judge of said Court.

849 This ____ day of _____, 20_____.

850 _____, Clerk of Court

851 By: _____

852 Deputy Clerk, _____ Court^{''}

853 **SECTION 28.**

854 Said chapter is further amended by revising Code Section 18-4-76, relating to summons of
 855 garnishment on financial institutions, as follows:

856 "18-4-76.

857 'IN THE _____ COURT OF _____ COUNTY

858 STATE OF GEORGIA

859)

860 **Plaintiff:**)

861 _____)

862 Name)

863)

864 **Plaintiff's contact information:**)

865 _____)

866 Name)

867 _____) **Civil Action File No.**

868 Street Address) _____

869 _____)

870 City State ZIP Code)

871 _____)

872 E-mail Address)

873 _____)

874 Phone Number)

875 _____)

876 Bar Number)

877)

878 v.)

879)

880 **Defendant:**) **Garnishment Court information:**

881 _____) _____

882 Name) Street Address

883 _____) _____, Georgia _____

884 Street Address) City ZIP Code

885 _____) _____

886 City State ZIP Code) Phone Number

887)

888 **Garnishee:**)

889 _____)

890 Name)

891 _____)

892 Street Address)

893 _____)
894 City State ZIP Code)

895 **SUMMONS OF GARNISHMENT ON A FINANCIAL**
896 **INSTITUTION**

897 **DO NOT USE THIS FORM IF THIS IS A CONTINUING**
898 **GARNISHMENT**

899 (SEE O.C.G.A. §§ 18-4-72 and 18-4-78) **OR CONTINUING**
900 **GARNISHMENT FOR CHILD SUPPORT OR**
901 **ALIMONY (SEE O.C.G.A. §§ 18-4-73 and 18-4-80).**

902 **Check this box if other allegations are made against a nonjudgment Defendant**
903 **pursuant to O.C.G.A. § 18-4-23.**

904 **Check this box if this is a garnishment for child support or alimony.**

905 **TO THE ABOVE-NAMED GARNISHEE:**

906 Total amount claimed due by the Plaintiff \$ _____

907 Plus court costs due on this summons \$ _____

908 Total garnishment claim \$ _____

909 **COURT OF JUDGMENT** _____

910 **JUDGMENT CASE NO.** _____

911 **YOU ARE HEREBY COMMANDED** to immediately hold all money, including wages,
912 and other property, except what is known to be exempt, including property in safe-deposit
913 boxes or similar property that you hold, belonging to the Defendant named above
914 beginning on the day of service of this summons and including the next five days. You are
915 **FURTHER COMMANDED** to file your answer, in writing, not sooner than five days and
916 not later than 15 days after the date you were served with this summons, with the Clerk of
917 this Court and serve a copy of your answer upon the Plaintiff or Plaintiff's Attorney named
918 above and the Defendant named above, or the Defendant's Attorney, if known, at the time
919 of making such answer. Your answer shall state what money, including wages, or other
920 property, except what is known to be exempt, belonging to the Defendant you hold
921 beginning on the day of service of this summons and including the next five days. Money,
922 including wages, or other property admitted in an answer to be subject to garnishment must
923 be paid sent or delivered to the Court concurrently with your answer.

924 If, in answering this summons, you state that the property of the Defendant includes
 925 property in a safe-deposit box or similar property, you shall answer to the Court issuing this
 926 summons as to the existence of such safe-deposit box or similar property and shall restrict
 927 access to any contents of such safe-deposit box or similar property until further order of
 928 such Court regarding the disposition of such contents or 120 days from the date of filing
 929 your answer to this summons unless such time has been extended by the Court, whichever
 930 is sooner.

931 Should you fail to file a Garnishee Answer as required by this summons, a judgment by
 932 default will be rendered against you for the amount remaining due on the judgment as
 933 shown in the Plaintiff's Affidavit of Garnishment.

934 **WITNESS**, the Honorable _____, Judge of said Court.

935 This ____ day of _____, 20_____.

936 _____, Clerk of Court

937 By: _____

938 Deputy Clerk, _____ Court"

939 **SECTION 29.**

940 Said chapter is further amended by revising Code Section 18-4-78, relating to summons of
 941 continuing garnishment, as follows:

942 "18-4-78.

943 **'IN THE _____ COURT OF _____ COUNTY**
 944 **STATE OF GEORGIA**

945 _____)

946 **Plaintiff:**)

947 _____)

948 Name)

949 _____)

950 **Plaintiff's contact information:**)

951 _____)

952 Name)

953 _____) **Civil Action File No.**

954 Street Address) _____

955 _____)

956 City State ZIP Code)
 957 _____)
 958 E-mail Address)
 959 _____)
 960 Phone Number)
 961 _____)
 962 Bar Number)
 963 _____)
 964 v.)
 965 _____)
 966 **Defendant:**) **Garnishment Court information:**
 967 _____) _____
 968 Name) Street Address
 969 _____) _____, Georgia _____
 970 Street Address) City ZIP Code
 971 _____) _____
 972 City State ZIP Code) Phone Number
 973 _____)
 974 **Garnishee:**)
 975 _____)
 976 Name)
 977 _____)
 978 Street Address)
 979 _____)
 980 City State ZIP Code)

981 **SUMMONS OF CONTINUING GARNISHMENT**

982 **TO THE ABOVE-NAMED GARNISHEE:**

983 Total amount claimed due by the Plaintiff \$ _____
 984 Plus court costs due on this summons \$ _____
 985 Total garnishment claim \$ _____

986 **COURT OF JUDGMENT** _____

987 **JUDGMENT CASE NO.** _____

988 **YOU ARE HEREBY COMMANDED** to immediately hold all money, including wages,
 989 and other property, except what is known to be exempt, belonging to the Defendant or
 990 obligations owed to the Defendant named above beginning on the day of service of this
 991 summons and including the next ~~179~~ 1,095 days. You are **FURTHER COMMANDED**
 992 to file your answer, in writing, not later than 45 days from the date you were served with
 993 this summons, with the Clerk of this Court and serve a copy of your answer upon the
 994 Plaintiff or Plaintiff's Attorney named above and the Defendant named above, or the
 995 Defendant's Attorney, if known, at the time of making such answer. Your answer shall
 996 state what money, including wages, or other property, except what is known to be exempt,
 997 belonging to the Defendant or obligations owed to the Defendant you hold or owe
 998 beginning on the day of service of this summons and between the time of such service and
 999 the time of making your first answer. Thereafter, you are required to file further answers
 1000 no later than 45 days after your last answer. Every further answer shall state what money,
 1001 including wages, and other property, except what is known to be exempt, belonging to the
 1002 Defendant or obligations owed to the Defendant you hold or owe at and from the time of
 1003 the last answer to the time of the current answer. ~~The last answer required by this~~
 1004 ~~summons shall be filed no later than the 195th day after you receive this summons.~~ YOU
 1005 MUST FILE ADDITIONAL ANSWERS UNTIL THE SOONER OF: THE PAYMENT
 1006 OF THE BALANCE SHOWN ON THE SUMMONS OF GARNISHMENT, THE
 1007 EXPIRATION OF 1,095 DAYS, OR THE TERMINATION OF ANY RELATIONSHIP
 1008 BETWEEN GARNISHEE AND DEFENDANT WHICH INCLUDES PERIODIC
 1009 PAYMENT OBLIGATIONS FROM GARNISHEE TO DEFENDANT. Money, including
 1010 wages, or other property admitted in an answer to be subject to continuing garnishment
 1011 must be ~~paid~~ sent or delivered to the Court concurrently with each answer.

1012 Should you fail to file Garnishee Answers as required by this summons, a judgment by
 1013 default will be rendered against you for the amount remaining due on a judgment as shown
 1014 in the Plaintiff's Affidavit of Continuing Garnishment.

1015 **WITNESS**, the Honorable _____, Judge of said Court.

1016

1017 This ____ day of _____, 20_____.

1018 _____, Clerk of Court

1019 By: _____

1020 Deputy Clerk, _____ Court"

1021

SECTION 30.

1022 Said chapter is further amended by revising Code Section 18-4-80, relating to summons of
1023 continuing garnishment for support, as follows:

1024 "18-4-80.

1025 'IN THE _____ COURT OF _____ COUNTY

1026 STATE OF GEORGIA

1027)

1028 **Plaintiff:**)

1029 _____)

1030 Name)

1031)

1032 **Plaintiff's contact information:**)

1033 _____)

1034 Name)

1035 _____) **Civil Action File No.**

1036 Street Address) _____

1037 _____)

1038 City State ZIP Code)

1039 _____)

1040 E-mail Address)

1041 _____)

1042 Phone Number)

1043 _____)

1044 Bar Number)

1045)

1046 v.)

1047)

1048 **Defendant:**) **Garnishment Court information:**

1049 _____) _____

1050 Name) Street Address

1051 _____) _____, Georgia _____

1052 Street Address) City ZIP Code

1053 _____) _____

1054 City State ZIP Code) Phone Number

1055)

1056 **Garnishee:**)

1057 _____)
 1058 Name)
 1059 _____)
 1060 Street Address)
 1061 _____)
 1062 City State ZIP Code)

1063 **SUMMONS OF CONTINUING GARNISHMENT FOR SUPPORT**
 1064 **GOVERNED BY ARTICLE 3 OF CHAPTER 4 OF TITLE 18**

1065 **TO THE ABOVE-NAMED GARNISHEE:**

1066 Total amount claimed due by the Plaintiff \$ _____
 1067 Plus court costs due on this summons \$ _____
 1068 Total garnishment claim \$ _____

1069 **COURT OF JUDGMENT** _____
 1070 **JUDGMENT CASE NO.** _____

1071 **YOU ARE HEREBY COMMANDED** to immediately hold all money, including wages,
 1072 and other property, except what is known to be exempt, belonging to the Defendant or
 1073 obligations owed to the Defendant named above beginning on the day of service of this
 1074 summons until the original arrearage is retired and all periodic support payments are
 1075 current or until the termination of the garnishment. You are **FURTHER COMMANDED**
 1076 to file your answer, in writing, not later than 45 days from the date you were served with
 1077 this summons, with the Clerk of this Court and serve a copy of your answer upon the
 1078 Plaintiff or Plaintiff's Attorney named above and the Defendant named above, or the
 1079 Defendant's Attorney, if known, at the time of making such answer. Your answer shall
 1080 state what money, including wages, or other property, except what is known to be exempt,
 1081 belonging to the Defendant or obligations owed to the Defendant you hold or owe
 1082 beginning on the day of service of this summons and between the time of such service and
 1083 the time of making your first answer. Thereafter, you are required to file further answers
 1084 no later than 45 days after your last answer. Every further answer shall state what money,
 1085 including wages, and other property, except what is known to be exempt, belonging to the
 1086 Defendant or obligations owed to the Defendant you hold or owe at and from the time of
 1087 the last answer to the time of the current answer. **YOU MUST FILE ADDITIONAL**
 1088 **ANSWERS UNTIL THE ORIGINAL ARREARAGE IS RETIRED AND ALL PERIODIC**
 1089 **SUPPORT PAYMENTS ARE CURRENT.** Money, including wages, or other property

1090 admitted in an answer to be subject to continuing garnishment must be ~~paid~~ sent or
 1091 delivered to the Court concurrently with each answer. The Plaintiff and the Defendant are
 1092 required by law to serve you with a copy of any amendment or modification to the original
 1093 judgment.

1094 Should you fail to file Garnishee Answers as required by this summons, a judgment by
 1095 default will be rendered against you for the amount remaining due on a judgment as shown
 1096 in the Plaintiff's Affidavit of Continuing Garnishment.

1097 **WITNESS**, the Honorable _____, Judge of said Court.

1098 This ____ day of _____, 20____.

1099 _____, Clerk of Court

1100 By: _____

1101 Deputy Clerk, _____ Court''

1102 **SECTION 31.**

1103 Said chapter is further amended by revising Code Section 18-4-84, relating to garnishee
 1104 answer, as follows:

1105 "18-4-84.

1106 **'IN THE _____ COURT OF _____ COUNTY**
 1107 **STATE OF GEORGIA**

1108 _____)

1109 _____)

1110 **Plaintiff**)

1111 _____)

1112 **v.**) **Civil Action File No.**

1113 _____) _____

1114 _____)

1115 **Defendant**)

1116 _____)

1117 _____)

1118 **Garnishee**)

1119 **GARNISHEE ANSWER OF _____ (GARNISHEE)**

1120 1. At the time of service or from the time of service to the time of this Garnishee
1121 Answer, the Garnishee had in its possession the following described property of the
1122 Defendant:

1123 _____
1124 _____
1125 _____

1126 2. At the time of service or from the time of service to the time of this Garnishee
1127 Answer, all obligations accruing from the Garnishee to the Defendant are in the amount
1128 of \$_____.

1129 3. \$ _____ is the amount herewith paid into court.

1130 4. The Garnishee further states: _____.

1131 _____
1132 Garnishee,
1133 Garnishee's Attorney, or
1134 officer or employee of an entity Garnishee

1135 **CERTIFICATE OF SERVICE**

1136 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the
1137 Defendant or Defendant's Attorney in the foregoing matter with a copy of this pleading by
1138 depositing it in the United States Mail in a properly addressed envelope with adequate
1139 postage thereon.

1140 This _____ day of _____, 20__.

1141 _____
1142 Garnishee,
1143 Garnishee's Attorney, or
1144 officer or employee of an entity Garnishee"

1145 **SECTION 32.**

1146 Said chapter is further amended by revising Code Section 18-4-85, relating to financial
1147 institution garnishee answer, as follows:

1148 "18-4-85.

1149 'IN THE _____ COURT OF _____ COUNTY

1150 STATE OF GEORGIA

1151)

1152 _____)

1153 **Plaintiff**)

1154)

1155 **v.**) **Civil Action File No.**

1156) _____

1157 _____)

1158 **Defendant**)

1159)

1160 _____)

1161 **Garnishee**

1162 **FINANCIAL INSTITUTION GARNISHEE ANSWER OF** _____

1163 **(GARNISHEE)**

1164 1. At the time of service of the Summons of Garnishment on a Financial Institution and
1165 including the next five days, the Garnishee had in its possession the following described
1166 money and property of the Defendant:

1167 _____

1168 _____

1169 _____

1170 2. \$ _____ is the amount herewith paid into court.

1171 3. **Check this box if the Defendant is not presently an account holder of the**
1172 **Garnishee.**

1173 4. The Garnishee further states: _____.

1174 _____

1175 **Garnishee,**

1176 **Garnishee's Attorney, or**

1177 **officer or employee of an entity Garnishee**

1178

CERTIFICATE OF SERVICE

1179 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the
1180 Defendant or Defendant's Attorney in the foregoing matter with a copy of this pleading by
1181 depositing it in the United States Mail in a properly addressed envelope with adequate
1182 postage thereon.

1183 This _____ day of _____, 20__.

1184 _____
1185 Garnishee,
1186 Garnishee's Attorney, or
1187 officer or employee of an entity Garnishee"

1188 **SECTION 33.**

1189 Said chapter is further amended by revising Code Section 18-4-86, relating to garnishee
1190 answer to continuing garnishment, as follows:

1191 "18-4-86.

1192 **'IN THE _____ COURT OF _____ COUNTY**

1193 **STATE OF GEORGIA**

1194)
1195 _____)
1196 **Plaintiff**)
1197)
1198 **v.**) **Civil Action File No.**
1199) _____
1200 _____)
1201 **Defendant**)
1202)
1203 _____)
1204 **Garnishee**)

1205 **GARNISHEE ANSWER OF _____ (GARNISHEE) TO CONTINUING**
1206 **GARNISHMENT**

1207 1. From the time of service of the Summons of Continuing Garnishment, if this is the
1208 first Garnishee Answer to such summons, otherwise from the time of the last Garnishee

1209 Answer to the Summons of Continuing Garnishment until the time of this Garnishee
1210 Answer, the Garnishee had in the Garnishee's possession the following described property
1211 of the Defendant:

1212 _____
1213 _____
1214 _____

1215 2. From the time of service of the Summons of Continuing Garnishment, if this is the
1216 first Garnishee Answer to such summons, otherwise from the time of the last Garnishee
1217 Answer to the Summons of Continuing Garnishment until the time of this Garnishee
1218 Answer, all obligations accruing from the Garnishee to the Defendant are in the amount
1219 of \$_____.

1220 3. \$_____ of the amount named in paragraph 2 were wages earned at the rate of
1221 \$_____ per _____ for the period beginning _____, 20____,
1222 _____ Date

1223 through the time of making this Garnishee Answer. The amount of wages which is
1224 subject to this garnishment is computed as follows:

- 1225 \$ _____ Gross earnings
- 1226 \$ _____ Total social security and withholding tax and other mandatory deductions
1227 required by law
- 1228 \$ _____ Total disposable earnings
- 1229 \$ _____ Amount of wages subject to garnishment.

1230 4. \$ _____ is the amount herewith paid into court.

1231 **5. Check this box if the Defendant is not presently employed by or owed periodic**
1232 **payments by the Garnishee.**

1233 **6. Check this box if the Defendant was employed by or owed periodic payments**
1234 **by the Garnishee on or after service of the Summons of Continuing Garnishment**
1235 **but was terminated as of _____, 20_____.**

1236 **Date**

1237 **7. Check this box if this is the last Garnishee Answer this Garnishee is required**
1238 **to file to the presently pending Summons of Garnishment in the above-styled case.**

1239 8. The Garnishee further states: _____.

1240 _____

1241 Garnishee,

1242 Garnishee's Attorney, or

1243 officer or employee of an entity Garnishee

1244 **CERTIFICATE OF SERVICE**

1245 This is to certify that I have this day served the Plaintiff or Plaintiff's Attorney and the

1246 Defendant or Defendant's Attorney in the foregoing matter with a copy of this pleading by

1247 depositing it in the United States Mail in a properly addressed envelope with adequate

1248 postage thereon.

1249 This _____ day of _____, 20__.

1250 _____

1251 Garnishee,

1252 Garnishee's Attorney, or

1253 officer or employee of an entity Garnishee"

1254 **SECTION 34.**

1255 Said chapter is further amended by revising Code Section 18-4-87, relating to plaintiff's

1256 traverse, as follows:

1257 "18-4-87.

1258 **'IN THE _____ COURT OF _____ COUNTY**

1259 **STATE OF GEORGIA**

1260 _____)

1261 _____)

1262 **Plaintiff**)

1263 _____)

1264 **v.**) **Civil Action File No.**

1265 _____) _____

1266 _____)

1267 **Defendant**)

1268 _____)

1269 _____)
1270 **Garnishee**)

1271 **PLAINTIFF'S TRAVERSE**

1272 Now comes the Plaintiff in the above-styled case and traverses the Garnishee Answer or
1273 Motion to Modify Default Judgment by saying the same is untrue or legally insufficient. The
1274 Plaintiff further states:

1275 _____
1276 _____.

1277 _____
1278 Plaintiff or Plaintiff's Attorney

1279 **CERTIFICATE OF SERVICE**

1280 This is to certify that I have this day served the Defendant and the Garnishee in the
1281 foregoing matter with a copy of this pleading by depositing it in the United States Mail in
1282 a properly addressed envelope with adequate postage thereon.

1283 This _____ day of _____, 20__.

1284 _____
1285 Plaintiff or Plaintiff's Attorney"

1286 **SECTION 35.**

1287 Said chapter is further amended by adding a new Code section to read as follows:

1288 "18-4-90.

1289 **'IN THE COURT OF COUNTY**
1290 **STATE OF GEORGIA**

1291 _____)
1292 _____)
1293 **Plaintiff**)
1294 _____)
1295 **v.**) **Civil Action File No.**
1296 _____)

1297 _____)
 1298 **Defendant**)
 1299)
 1300 _____)
 1301 **Garnishee**)

1302 **MODIFICATION OF CONTINUING GARNISHMENT**

1303 To: _____

1304 Garnishee

1305 This is to notify you that the undersigned Plaintiff and Defendant have agreed to a
 1306 modification of the above-styled garnishment action. Upon receipt of service of a legible
 1307 copy of this document, stamped by the garnishment court, with the signatures of both
 1308 Plaintiff and Defendant affixed and fully notarized, the Summons of Garnishment served
 1309 upon you in this action is superseded as follows: you are commanded instead to make the
 1310 following deduction from all obligations owed to the Defendant during the remaining
 1311 garnishment period of the above-styled garnishment action:

1312 1) The sum of \$ _____ per week/two weeks/month/paycheck (circle one); or,

1313 2) _____ % of the disposable income of Defendant.

1314 You are authorized and instructed to deliver such amount(s) to Plaintiff directly, by any
 1315 electronic or other mechanism provided to you by Plaintiff if acceptable to you, or payable
 1316 and addressed to:

1317 _____ (Plaintiff or attorney/firm name)

1318 _____ (Plaintiff or attorney street address)

1319 _____ (Plaintiff or attorney city, state, ZIP Code)

1320 This Modification does not terminate the garnishment action, nor does it relieve you of the
 1321 obligation to file answers of garnishment with the garnishment court and to serve such
 1322 answers on the Plaintiff and Defendant within the times and in the manner prescribed by law.

1323 This Modification is effective only upon service on you of a file-stamped copy of same.

1324 Agreed to by:

1325	<u>Sign:</u> _____	<u>Sign:</u> _____
1326	<u>Print:</u> _____	<u>Print:</u> _____
1327	<u>Title (if any)</u> _____	<u>Title (if any)</u> _____
1328	<u>Plaintiff</u>	<u>Defendant or Representative/Attorney</u>
1329	Executed before me by _____, this	Executed before me by _____, this
1330	_____ day of _____, 20	_____ day of _____, 20
1331	<u>Notary Public/Clerk</u>	<u>Notary Public/Clerk</u> "

1332 **SECTION 36.**

1333 Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to
 1334 scholarships, loans, and grants, is amended by revising subsection (c) of Code Section
 1335 20-3-236, relating to powers and duties of commission, board of commissioners, and officers,
 1336 confidentiality, and repayments and refunds, as follows:

1337 "(c) Except as prohibited by federal or state law and as limited by subparagraph (a)(1)(A)
 1338 of Code Section 18-4-5, individuals who owe any amount to the commission relating to any
 1339 scholarship or grant made by the commission, including repayments and refunds, are,
 1340 without judicial action, subject to garnishment of their pay, loss of a professional license,
 1341 offset of lottery winnings, and offset of a state tax refund in accordance with rules and
 1342 regulations promulgated by the commission. As used in this subsection, the term 'refund'
 1343 means scholarship and grant amounts paid to or on behalf of individuals, in accordance
 1344 with rules and regulations promulgated by the commission, subsequently determined to be
 1345 ineligible to receive such scholarship and grant amounts. The remedies set forth in this
 1346 subsection shall be in addition to all other remedies available at law and in equity."

1347 **SECTION 37.**

1348 Said article is further amended by revising subsection (c) of Code Section 20-3-316, relating
 1349 to powers and duties of authority, employees' functions, servicing of educational loans,
 1350 registration with Selective Service System, conflicts with federal or other state law, and
 1351 confidentiality, as follows:

1352 "(c) Except as prohibited by federal or state law and as limited by subparagraph (a)(1)(A)
 1353 of Code Section 18-4-5, individuals who owe any amount to the authority relating to any
 1354 loan, scholarship, or grant made by the authority, including loan repayments and refunds,
 1355 are, without judicial action, subject to garnishment of their pay, loss of a professional
 1356 license, offset of lottery winnings, and offset of a state tax refund in accordance with rules
 1357 and regulations promulgated by the authority. As used in this subsection, the term 'refund'

1358 means scholarship and grant amounts paid to or on behalf of individuals, in accordance
1359 with rules and regulations promulgated by the authority, subsequently determined to be
1360 ineligible to receive such scholarship and grant amounts. The remedies set forth in this
1361 subsection shall be in addition to all other remedies available at law and in equity."

1362

SECTION 38.

1363 All laws and parts of laws in conflict with this Act are repealed.