

# HOUSE BILL No. 1086

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-4-19-6.5; IC 34-55-8.

**Synopsis:** Garnishment of wages. Provides that a creditor may, by written consent or court order, access wage report information from the department of workforce development for the purpose of obtaining a garnishment order. Requires a court that has issued a garnishment order to a third party to cancel the garnishment order and issue a new garnishment order without a hearing if certain circumstances have changed. Requires an employer that is garnishing a judgment debtor's wages to inform the clerk of courts when the judgment debtor leaves employment with the employer. Provides that, once such notice is given, the employer has no further obligations under the garnishment order. Provides that if: (1) a judgment debtor leaves employment with an employer that is garnishing the judgment debtor's wages under a garnishment order; (2) the judgment debtor subsequently returns to employment with the same employer; and (3) the judgment against the judgment debtor has not been satisfied; the judgment creditor must obtain a new garnishment order before the employer of the judgment debtor must resume wage garnishment.

**Effective:** July 1, 2018.

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January 3, 2018, read first time and referred to Committee on Judiciary.

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Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1086

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 22-4-19-6.5, AS AMENDED BY P.L.177-2005,  
2 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 6.5. (a) The department may make available  
4 through the enhanced electronic access system established by the office  
5 of technology established by IC 4-13.1-2-1 secure electronic access for  
6 creditors to employer provided information on the amount of wages  
7 paid by an employer to an employee.  
8 (b) The enhanced electronic access system established by the office  
9 of technology may enter into a contract with one (1) or more private  
10 entities to allow private entities to provide secure electronic access to  
11 employer provided information held by the department on the amount  
12 of wages paid by an employer to an employee.  
13 (c) **Except as provided in subsection (f)**, a creditor may obtain  
14 wage report information from a private entity if the creditor first  
15 obtains written consent from the employee whose information the  
16 creditor seeks to obtain. A creditor that has entered into a contract with  
17 the enhanced electronic access system must retain a written consent



1 received under this section for at least three (3) years or for the length  
2 of the loan if the loan is for less than three (3) years.

3 (d) Written consent from the employee must include the following:

4 (1) A statement that the written consent is the authorization for  
5 the creditor to obtain information on the employee's employment  
6 and wage history.

7 (2) A statement that the information is obtained solely for the  
8 purpose of reviewing a specific application for credit.

9 (3) Notification that state agency files containing employment and  
10 wage history will be accessed to provide the information.

11 (4) A listing of all parties that will receive the information  
12 obtained.

13 (e) Information ~~under this section~~ may only be released to a creditor  
14 **under subsection (c)** for the purpose of satisfying the standard  
15 underwriting requirements of the creditor or a client of the creditor for  
16 one (1) credit transaction per employee written consent.

17 **(f) Upon request of a creditor made at any time after a**  
18 **monetary judgment has been entered against an employee, the**  
19 **court shall issue an order allowing the creditor to obtain the**  
20 **employee's wage report information from a private entity. A**  
21 **creditor may use the same order to obtain the employee's wage**  
22 **report information until the judgment against the employee has**  
23 **been satisfied or has expired.**

24 ~~(f)~~ (g) The costs of implementing and administering the release of  
25 information must be paid by the private entity or entities that contract  
26 with the enhanced electronic access system established by the office of  
27 technology.

28 ~~(g)~~ (h) For employee information under this section, a private entity  
29 that enters a contract with the enhanced electronic access system  
30 established by the office of technology for release of employee  
31 information must comply with:

32 (1) the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

33 (2) all state and federal privacy laws; and

34 (3) the rules regarding the release of information adopted by the  
35 United States Department of Labor.

36 ~~(h)~~ (i) A private entity that has entered into a contract with the  
37 enhanced electronic access system under subsection (b) must maintain  
38 a consent verification system that audits at least five percent (5%) of  
39 daily transactions and must maintain a file of audit procedures and  
40 results.

41 ~~(i)~~ (j) A person who violates this section commits a Class A  
42 infraction.



1 SECTION 2. IC 34-55-8-7, AS AMENDED BY P.L.78-2014,  
 2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2018]: Sec. 7. (a) Except as provided in subsection (b), after  
 4 a hearing of which the judgment debtor has been notified, the court  
 5 may order:

- 6 (1) any property, income, or profits of the judgment debtor not  
 7 exempt from execution or process, in the hands either of the  
 8 judgment debtor or of any other person; or  
 9 (2) any debt due to the judgment debtor;

10 to be applied to the satisfaction of the judgment and forbid transfers of  
 11 property and choses in action.

12 (b) If the judgment debtor has failed to comply with an agreed order  
 13 in the action, after a hearing of which the judgment debtor has been  
 14 notified, the court shall order:

- 15 (1) any property, income, or profits of the judgment debtor not  
 16 exempt from execution or process, in the hands either of the  
 17 judgment debtor or of any other person; or  
 18 (2) any debt due to the judgment debtor;

19 to be applied to the satisfaction of the judgment and forbid transfers of  
 20 property and choses in action.

21 (c) The judge shall order that:

- 22 (1) the judgment or execution is a continuing lien upon the  
 23 income or profits of the judgment debtor in the hands either of the  
 24 judgment debtor or any other person, governmental officer, or  
 25 corporation from the date the order is served upon the person,  
 26 governmental officer, or corporation indebted to the judgment  
 27 debtor to the extent that the lien, together with all similar liens, is  
 28 permitted under IC 24-4.5-5-105; and  
 29 (2) the court may enforce all orders and decrees in the premises,  
 30 by attachment or otherwise.

31 (d) A court in an action for proceedings supplementary to execution  
 32 shall issue an order directing a depository financial institution (as  
 33 defined in IC 28-9-2) to place a hold on a deposit account in which the  
 34 judgment debtor has an interest, either individually or jointly with  
 35 another person, whenever the conditions prescribed under  
 36 IC 28-9-3-4(d)(1) through IC 28-9-3-4(d)(3) are met. An order issued  
 37 under this subsection:

- 38 (1) is subject to the limitations as to duration of the restriction and  
 39 the amount to be restricted as specified under IC 28-9-4-2; and  
 40 (2) may be terminated or modified to reflect valid exemptions of  
 41 a depositor that the court has considered.

42 (e) If an order for the placing of a hold on a deposit account is



1 issued under subsection (d), a person whose deposit account is affected  
2 may request a hearing from the court on the matter of:

3 (1) the person's right to claim certain funds in the person's deposit  
4 account as exempt from garnishment; and

5 (2) whether the hold should be removed by the court.

6 (f) If a court receives a request for a hearing under subsection (e),  
7 the court shall hold a hearing on the matter within five (5) days  
8 (excluding Saturdays, Sundays, and legal holidays) after the court  
9 receives the request.

10 (g) If a person whose deposit account is affected by the order issued  
11 under subsection (d) files an affidavit with the court stating that the  
12 funds in the account are exempt from garnishment, the court may issue  
13 an order releasing the hold on the account without first conducting a  
14 hearing.

15 (h) If a court has issued a garnishment order to a third party and the  
16 garnishment order no longer applies to the third party due to a change  
17 in circumstances, the court ~~may~~ **shall** cancel the garnishment order and  
18 issue a new garnishment order to an appropriate third party, if all of the  
19 following conditions are met:

20 (1) The court has issued a garnishment order under subsection (a)  
21 or (b) with respect to a judgment debtor's income or profits in the  
22 hands of a third party.

23 (2) The judgment constitutes a continuing lien under subsection  
24 (c).

25 (3) Due to a change in circumstances, including a change of  
26 employment, the judgment debtor's income or profits are in the  
27 hands of a new third party not named in the garnishment order.

28 (4) The judgment creditor files a petition:

29 (A) notifying the court of the matters described in subdivisions  
30 (1) through (3); and

31 (B) informing the court of the name, address, and other  
32 relevant information concerning the new third party holding  
33 the judgment debtor's income and profits.

34 A court may issue a new garnishment order under this subsection  
35 without holding a hearing.

36 SECTION 3. IC 34-55-8-7.5 IS ADDED TO THE INDIANA CODE  
37 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
38 1, 2018]: **Sec. 7.5. (a) If a judgment debtor voluntarily or**  
39 **involuntarily leaves employment with an employer that is**  
40 **garnishing the judgment debtor's wages under a garnishment**  
41 **order, the employer shall notify the court and all parties to the**  
42 **action that:**



- 1           **(1) the judgment debtor is no longer employed with the**  
2           **employer; and**  
3           **(2) the employer will no longer have access to the judgment**  
4           **debtor's income.**  
5           **(b) After providing notice under subsection (a), the employer**  
6           **has no further obligations under the garnishment order.**  
7           **(c) If:**  
8           **(1) a judgment debtor leaves employment with an employer**  
9           **that is garnishing the judgment debtor's wages under a**  
10           **garnishment order;**  
11           **(2) the judgment debtor subsequently returns to employment**  
12           **with the same employer; and**  
13           **(3) the judgment against the judgment debtor has not been**  
14           **satisfied;**  
15           **the judgment creditor must obtain a new garnishment order under**  
16           **section 7(h) of this chapter before the employer of the judgment**  
17           **debtor is required to resume garnishment of the wages of the**  
18           **judgment debtor.**

