

1 **SENATE FLOOR VERSION**

2 April 11, 2023

3 ENGROSSED HOUSE
4 BILL NO. 2792

By: Stinson and Waldron of the
House

5 and

6 Howard of the Senate

7
8
9 An Act relating to civil procedure; amending 12 O.S.
10 2021, Sections 1148.15 and 1148.16, which relate to
11 affidavit and summons form for unlawful entry and
12 detainer actions; removing affidavit form; directing
13 the Oklahoma Bar Association to promulgate clear and
14 understandable form for forcible entry and detainer
15 action affidavits; providing that the Administrative
16 Office of the Courts shall make certain forms
17 available to access on the Oklahoma State Courts
18 Network (OSCN) website; removing summons form;
19 directing the Oklahoma Bar Association to promulgate
20 clear and understandable form for forcible entry and
21 detainer action summons; providing that the
22 Administrative Office of the Courts shall make
23 certain forms available to access on the Oklahoma
24 State Courts Network (OSCN) website; providing timing
requirements for summons delivery; amending 12 O.S.
2021, Sections 1172, 1173, 1173.2, 1173.4, 1174,
1178, 1178.1, 1178.2, and 1772, which relate to court
forms; providing that certain forms shall be
prescribed by the Oklahoma Bar Association; providing
that the Administrative Office of the Courts shall
make certain forms available to access on the
Oklahoma State Courts Network (OSCN) website; and
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY 12 O.S. 2021, Section 1148.15, is
2 amended to read as follows:

3 Section 1148.15 The actions for unlawful entry and detainer,
4 commonly known as an eviction, standing alone or when joined with a
5 claim for collection of rent or damages to the premises, or both,
6 shall be commenced by filing an affidavit ~~in substantially the~~
7 ~~following form with the clerk of the court:~~ with the clerk of the
8 court. This affidavit is to be developed by the Oklahoma Bar
9 Association using plain and understandable language. The
10 Administrative Office of the Courts shall provide public access to
11 the affidavit by providing a link to the form on the Oklahoma State
12 Courts Network (OSCN) website.

13 ~~In the District Court, County of _____,~~
14 ~~State of Oklahoma.~~

15 _____

16 Plaintiff

17 vs. _____ No. _____

18 _____

19 Defendant

20 ~~STATE OF OKLAHOMA)~~

21 ~~) ss~~

22 ~~COUNTY OF _____)~~

23 AFFIDAVIT

24 _____, being duly sworn, deposes and says:

1 SECTION 2. AMENDATORY 12 O.S. 2021, Section 1148.16, is
2 amended to read as follows:

3 Section 1148.16 The summons to be issued in an action for
4 forcible entry and detainer, commonly known as an eviction, shall be
5 ~~in the following a form:~~ developed in plain and understandable
6 language by the Oklahoma Bar Association. The Administrative Office
7 of the Courts shall provide public access to the affidavit by
8 providing a link to the form on the Oklahoma State Courts Network
9 (OSCN) website. The summons shall be delivered no less than three
10 (3) days before the scheduled time and date of the court hearing.
11 This scheduled date and time shall not be less than five (5) days
12 from the date the summons is issued.

13 ~~SUMMONS~~

14 ~~The State of Oklahoma to the within-named defendant:~~

15 ~~You are hereby directed to relinquish immediately to the~~
16 ~~plaintiff herein total possession of the real property described as~~
17 _____
18 ~~or to appear and show cause why you should be permitted to retain~~
19 ~~control and possession thereof.~~

20 ~~This matter shall be heard at _____ (name or~~
21 ~~address of building), in _____, County of _____,~~
22 ~~State of Oklahoma, at the hour of _____ o'clock of _____ day of~~
23 ~~_____ month, 19____, or at the same time and place three (3) days~~
24 ~~after service hereof, whichever is the latter. (This date shall be~~

1 ~~not less than five (5) days from the date summons is issued). You~~
2 ~~are further notified that if you do not appear on the date shown,~~
3 ~~judgment will be given against you as follows:~~

4 ~~For the amount of the claim for deficient rent and/or damages to~~
5 ~~the premises, as it is stated in the affidavit of the plaintiff and~~
6 ~~for possession of the real property described in said affidavit,~~
7 ~~whereupon a writ of assistance shall issue directing the sheriff to~~
8 ~~remove you from said premises and take possession thereof.~~

9 ~~In addition, a judgment for costs of the action, including~~
10 ~~attorney's fees and other costs, may also be given.~~

11 Dated this _____ day of _____, 19__.

12 _____

13 ~~Clerk of the Court (or Judge)~~

14 _____

15 ~~Plaintiff or Attorney~~

16 _____

17 ~~Address~~

18 _____

19 ~~Telephone Number~~

20 SECTION 3. AMENDATORY 12 O.S. 2021, Section 1172, is
21 amended to read as follows:

22 Section 1172. A. Garnishment proceedings, whether prejudgment
23 or postjudgment, shall be commenced by the filing of an affidavit,
24 on a form prescribed by the ~~Administrative Director of the Courts~~

1 Oklahoma Bar Association. The Administrative Office of the Courts
2 shall provide public access to the affidavit by providing a link to
3 the form on the Oklahoma State Courts Network (OSCN) website,

4 stating:

5 1. The name(s) of the plaintiff(s);

6 2. The name(s) of the defendant(s);

7 3. In the case of prejudgment garnishments, the amount of the
8 plaintiff's original claim against the defendant or defendants over
9 and above all offsets;

10 4. In the case of postjudgment garnishments, the amount of the
11 interest-bearing balance;

12 5. In the case of postjudgment garnishments, the rate and the
13 date the interest begins to accrue; and

14 6. That the plaintiff verily believes that some person, naming
15 him or her, whether within or without the county, is indebted to or
16 has property in his or her possession or under his or her control
17 belonging to the defendant, or either or any of the defendants, in
18 the action or execution and that the indebtedness or property is, to
19 the best of the knowledge and belief of the person making such
20 affidavit, not by law exempt from seizure or sale upon execution.

21 B. The affidavit may be filed by the plaintiff or the
22 plaintiff's attorney at or before the time of filing of a
23 garnishment summons.

24

1 C. Only one garnishee may be embraced in any affidavit or
2 garnishment summons.

3 SECTION 4. AMENDATORY 12 O.S. 2021, Section 1173, is
4 amended to read as follows:

5 Section 1173. A. Any judgment creditor may obtain a
6 noncontinuing lien on earnings. For the purposes of this section,
7 "earnings" means any form of payment to an individual including, but
8 not limited to, salary, commission, or other compensation, but does
9 not include reimbursements for travel expenses for state employees.

10 B. A noncontinuing earnings garnishment shall be commenced by
11 filing the affidavit provided for by Section 1172 of this title.

12 C. The form for the summons required by this section shall be
13 prescribed by the ~~Administrative Office of the Courts~~ Oklahoma Bar
14 Association. The Administrative Office of the Courts shall provide
15 public access to the summons by providing a link to the form on the
16 Oklahoma State Courts Network (OSCN) website.

17 D. The summons shall be served upon the garnishee, together
18 with a copy of the judgment creditor's affidavit, a garnishee's
19 answer form, notice of garnishment and request for hearing, and
20 claim for exemptions, in the manner provided for in Section 2004 of
21 this title and shall be returned with proof of service within ten
22 (10) days of its date.

23 E. The garnishee's answer shall be on a form prescribed by the
24 ~~Administrative Office of the Courts~~ Oklahoma Bar Association. The

1 Administrative Office of the Courts shall provide public access to
2 the garnishee's answer by providing a link to the form on the
3 Oklahoma State Courts Network (OSCN) website.

4 F. Within seven (7) days after the end of the defendant's then-
5 current pay period or thirty (30) days from the date of service of
6 the garnishment summons, whichever is earlier, the garnishee shall
7 file the answer with the court clerk and the garnishee shall pay the
8 amount withheld from the pay period to the judgment creditor's
9 attorney or to the judgment creditor, if there is no attorney, with
10 a copy of the answer which shall state:

11 1. Whether the garnishee was the employer of or indebted or
12 under any liability to the defendant named in the notice in any
13 manner or upon any account for earnings or wages, specifying, as
14 applicable, the beginning and ending dates of the pay period
15 existing at the time of the service of the affidavit and summons,
16 the total amounts earned in the pay period, and all of the facts and
17 circumstances necessary to a complete understanding of the
18 indebtedness or liability. When the garnishee shall be in doubt
19 respecting the liability or indebtedness, the garnishee may set
20 forth all of the facts and circumstances concerning the same, and
21 submit the question to the court;

22 2. If the garnishee shall claim any setoff, defense, other
23 indebtedness, liability, lien, or claim to the property, the facts
24 and circumstances in the affidavit;

1 3. At the garnishee's option, any claim of exemption from
2 execution on the part of the defendant or other objection known to
3 the garnishee against the right of the judgment creditor to apply
4 the indebtedness or property disclosed;

5 4. If the garnishee shall disclose any indebtedness or the
6 possession of any property to which the defendant or any other
7 person makes claim, at the garnishee's option, the names and
8 addresses of other claimants and, so far as known, the nature of the
9 claims; and

10 5. That the garnishee has mailed or hand-delivered a copy of
11 the notice of garnishment and exemptions, application for hearing,
12 and the manner and date of compliance.

13 G. The garnishment summons served on the garnishee under this
14 section is a lien on the defendant's property due at the time of
15 service or the effective date of the summons to the extent the
16 property is not exempt from garnishment.

17 H. 1. A garnishment lien under this section has priority over
18 any subsequent garnishment lien or garnishment summons served on the
19 garnishee.

20 2. When a garnishment summons is served under this section on a
21 garnishee while a previous garnishment lien is still in effect, the
22 garnishee shall answer the subsequent garnishment lien or
23 garnishment summons by stating that the garnishee is presently
24 holding defendant's property under a previous garnishment lien or

1 garnishment summons and by giving the date when all previous
2 garnishment liens or garnishment summonses are expected to end.

3 I. 1. When a postjudgment noncontinuing earnings garnishment
4 under this section or a continuing earnings garnishment under
5 Section 1173.4 of this title is issued against a defendant already
6 subject to an income assignment for child support, the garnishee
7 shall determine the maximum percentage of the defendant's disposable
8 earnings according to the provisions of Section 1171.2 of this title
9 and then deduct from that percentage the actual percentage of the
10 defendant's disposable earnings actually withheld under the income
11 assignment. The resulting percentage shall be the amount to be
12 withheld by the garnishee, not to exceed twenty-five percent (25%).

13 2. For any involuntary legal or equitable procedures through
14 which the earnings of any individual are required to be withheld for
15 the payment of any debt which has statutory priority over this
16 section, the amount withheld pursuant to a garnishment under this
17 section shall be reduced by the actual sums withheld pursuant to
18 such other involuntary process.

19 J. A noncontinuing earnings garnishment may be suspended or
20 modified by the judgment creditor upon agreement with the judgment
21 debtor, which agreement shall be in writing and filed by the
22 judgment creditor with the clerk of the court in which the judgment
23 was entered. A copy of such agreement shall be mailed by first
24 class mail to the garnishee, postage prepaid by judgment creditor.

1 SECTION 5. AMENDATORY 12 O.S. 2021, Section 1173.2, is
2 amended to read as follows:

3 Section 1173.2 Upon the filing of such affidavit and the
4 undertaking and, when a hearing is required, after said hearing,
5 where the garnishment is for the collection of support, garnishee
6 summons shall be issued by the judge of the district court if
7 prejudgment garnishment is sought or by the clerk of the district
8 court if postjudgment garnishment is sought and served upon each of
9 the garnishees, in the manner provided for service of summons, and
10 shall be returned with proof of service within five (5) days of its
11 date except when issued to another county it shall be returned with
12 proof of service within ten (10) days from its date. The garnishee
13 summons shall be on a form prescribed by the ~~Administrative Office~~
14 ~~of the Courts~~ Oklahoma Bar Association. The Administrative Office
15 of the Courts shall provide for public access to the garnishee
16 summons by providing a link to the form on Oklahoma State Courts
17 Network (OSCN) website.

18 SECTION 6. AMENDATORY 12 O.S. 2021, Section 1173.3, is
19 amended to read as follows:

20 Section 1173.3 A. A general garnishment shall be commenced by
21 filing the affidavit provided for by Section 1172 of this title.

22 B. The summons required by this section shall be on a form
23 prescribed by the ~~Office of the Administrative Director of the~~
24 ~~Courts~~ Oklahoma Bar Association. The Administrative Office of the

1 Courts shall provide public access to the summons by providing a
2 link to the form on the Oklahoma State Courts Network (OSCN)
3 website.

4 C. The summons required by subsection B of this section shall
5 be served upon the garnishee together with a copy of the judgment
6 creditor's affidavit, a garnishee's answer form, notice of
7 garnishment and request for hearing, and claim for exemptions in the
8 manner provided for in Section 2004 of this title and shall be
9 returned with proof of service within ten (10) days of its date.

10 D. The garnishee's answer shall be on a form prescribed by the
11 ~~Office of the Administrative Director of the Courts~~ Oklahoma Bar
12 Association. The Administrative Office of the Courts shall provide
13 public access to the garnishee's answer by providing a link to the
14 form on the Oklahoma State Courts Network (OSCN) website.

15 E. Within ten (10) days after service of the garnishment, the
16 garnishee shall file its answer with the court clerk and pay or
17 deliver to the judgment creditor's attorney or to the judgment
18 creditor if there is no attorney the indebtedness or property
19 belonging to or owed to the defendant, together with a copy of the
20 answer which shall state:

21 1. Whether the garnishee was indebted or under any liability to
22 or had in garnishee's possession or control, any property belonging
23 to the defendant. When the garnishee shall be in doubt respecting
24 any such liability or indebtedness, the garnishee may set forth all

1 of the facts and circumstances concerning the same, and submit the
2 question to the court;

3 2. If the garnishee shall claim any setoff, defense, other
4 indebtedness, liability, lien, or claim to the property, the facts
5 and circumstances;

6 3. At the garnishee's option, any claim of exemption from
7 execution on the part of the defendant, or other objection known to
8 the garnishee against the right of the judgment creditor to apply
9 the indebtedness or property disclosed;

10 4. If the garnishee shall disclose any indebtedness or the
11 possession of any property to which the defendant or any other
12 person makes claim, at the garnishee's option, the names and
13 addresses of such other claimants and, so far as known, the nature
14 of the claims; and

15 5. That the garnishee has mailed or hand-delivered a copy of
16 the notice of garnishment and exemptions, application for hearing,
17 and the manner and date of compliance.

18 F. The garnishment summons and affidavit served on the
19 garnishee under this section are a lien on the defendant's property
20 due at the time of service of the summons to the extent the property
21 is not exempt from garnishment.

22 SECTION 7. AMENDATORY 12 O.S. 2021, Section 1173.4, is
23 amended to read as follows:

24

1 Section 1173.4 A. Any judgment creditor may obtain a
2 continuing lien on earnings. For the purposes of this section,
3 "earnings" means any form of payment to an individual including, but
4 not limited to, salary, wages, commission, or other compensation,
5 but does not include reimbursements for travel expenses for state
6 employees.

7 B. A continuing earnings garnishment shall be commenced by
8 filing the affidavit provided for by Section 1172 of this title.

9 C. The summons required by this section shall be on a form
10 prescribed by the ~~Administrative Office of the Courts~~ Oklahoma Bar
11 Association. The Administrative Office of the Courts shall provide
12 public access to the summons by providing a link to the form on the
13 Oklahoma State Courts Network (OSCN) website.

14 D. The summons required by this section shall be served upon
15 each of the garnishees, together with a copy of the judgment
16 creditor's affidavit, a garnishee's answer form, notice of
17 garnishment and request for hearing, and claim for exemptions, in
18 the manner provided for in Section 2004 of this title and shall be
19 returned with proof of service within ten (10) days of its date.

20 E. The garnishee's answer shall be on a form prescribed by the
21 ~~Administrative Office of the Courts~~ Oklahoma Bar Association. The
22 Administrative Office of the Courts shall provide public access to
23 the garnishee's answer by providing a link to the form on the
24 Oklahoma State Courts Network (OSCN) website.

1 F. Within seven (7) days after the end of each pay period, or,
2 if the judgment debtor does not have regular pay periods or is not
3 paid by the garnishee within thirty (30) days from the date of the
4 garnishment summons, and after any payment by the garnishee to the
5 judgment debtor, the garnishee shall file an answer with the court
6 clerk, and pay the amount withheld to the judgment creditor's
7 attorney or to the judgment creditor, if there is no attorney,
8 together with a copy of the answer which shall state:

9 1. Whether the garnishee was the employer of the defendant
10 named in the notice, was indebted to the defendant, or was under any
11 liability to the defendant in any manner or upon any account for
12 earnings, specifying the beginning and ending dates of the pay
13 period, if applicable, existing at the time of the service of the
14 affidavit and summons, the total amounts earned in the entire pay
15 period, and all of the facts and circumstances necessary to a
16 complete understanding of any indebtedness or liability. When the
17 garnishee shall be in doubt respecting the liability or
18 indebtedness, the garnishee may set forth all of the facts and
19 circumstances concerning the same, and submit the question to the
20 court;

21 2. If the garnishee shall claim any setoff, defense, other
22 indebtedness, liability, lien, or claim to the property, the facts
23 and circumstances in the affidavit;

24

1 3. At the garnishee's option, any claim of exemption from
2 execution on the part of the defendant or other objection known to
3 the garnishee against the right of the judgment creditor to apply
4 the indebtedness or property disclosed;

5 4. If the garnishee shall disclose any indebtedness or the
6 possession of any property to which the defendant or any other
7 person makes claim, at the garnishee's option, the names and
8 addresses of other claimants and, so far as known, the nature of
9 their claims; and

10 5. That the garnishee has mailed or hand-delivered a copy of
11 the notice of garnishment and exemptions, application for hearing,
12 and the manner and date of compliance.

13 G. The garnishment summons served on the garnishee under this
14 section is a lien on the defendant's property due at the time of
15 service or the effective date of the summons, to the extent the
16 property is not exempt from garnishment. This lien attaches to
17 subsequent nonexempt earnings until one of the following occurs:

18 1. The judgment against the defendant is vacated, modified, or
19 satisfied in full;

20 2. The summons is dismissed; or

21 3. One hundred eighty (180) days from the effective date of the
22 summons have elapsed; provided, an affidavit and summons shall
23 continue in effect and shall apply to a pay period beginning before
24

1 the end of the one-hundred-eighty-day period even if the conclusion
2 extends beyond the end of the period.

3 H. 1. A garnishment lien under this section has priority over
4 any subsequent garnishment lien or garnishment summons served on the
5 garnishee during the period it is in effect, regardless of whether
6 the amounts withheld by the garnishee are reduced by the court or by
7 agreement of the parties.

8 2. a. When a garnishment summons is served under this
9 section on a garnishee while a previous garnishment
10 lien is still in effect, the garnishee shall answer
11 the subsequent garnishment lien or garnishment summons
12 by stating that the garnishee is presently holding
13 defendant's property under a previous garnishment lien
14 or garnishment summons, and by giving the date when
15 all previous garnishment liens or garnishment summons
16 are expected to end.

17 b. The subsequent summons is not effective if a summons
18 or lien on the same cause of action is pending at the
19 time of service unless the subsequent summons in the
20 same cause of action is served after the one-hundred-
21 fiftieth day of the previous garnishment lien.

22 I. 1. When a postjudgment wage garnishment under Section 1173
23 of this title or a continuing earnings garnishment under this
24 section is issued against a defendant already subject to an income

1 assignment for child support, the garnishee shall determine the
2 maximum percentage of the defendant's disposable earnings according
3 to the provisions of Section 1171.2 of this title and then deduct
4 from that percentage the actual percentage of the defendant's
5 disposable earnings actually withheld under the income assignment.
6 The resulting percentage shall be the amount to be withheld by the
7 garnishee, not to exceed twenty-five percent (25%).

8 2. For any involuntary legal or equitable procedures through
9 which the earnings of any individual are required to be withheld for
10 the payment of any debt which has statutory priority over this
11 section, the amount withheld pursuant to a garnishment under this
12 section shall be reduced by the actual sums withheld pursuant to
13 such other involuntary process.

14 J. A continuing earnings garnishment may be suspended or
15 modified for a specific period of time within the effective period
16 of the garnishment by the judgment creditor upon agreement with the
17 judgment debtor, which agreement shall be in writing and filed by
18 the judgment creditor with the clerk of the court in which the
19 judgment was entered, and a copy of which shall be mailed by first-
20 class mail, postage prepaid by the judgment creditor to the
21 garnishee.

22 K. Any garnishment issued against a debtor already subject to a
23 continuing or noncontinuing earnings garnishment shall take effect
24 immediately upon the conclusion of the prior garnishment, and shall

1 be effective for its full one-hundred-eighty-day period of time or
2 as otherwise provided in subsection G of this section.

3 SECTION 8. AMENDATORY 12 O.S. 2021, Section 1174, is
4 amended to read as follows:

5 Section 1174. A. In all cases of garnishment before judgment,
6 the defendant in the principal action shall be given notice of the
7 issuance in said action of any garnishee summons, the date of
8 issuance of said summons, and the name of the garnishee.

9 B. In all cases of garnishment for the collection of child
10 support, the defendant shall be given notice as required by this
11 section.

12 C. In all cases of postjudgment garnishment, the court clerk
13 shall attach notice, in a form prescribed by the ~~Administrative~~
14 ~~Director of the Courts~~ Oklahoma Bar Association, with the
15 garnishment, in the manner provided by Section 1172.2 of this title
16 that the defendant may be entitled to claim an exemption for any
17 assistance received pursuant to the terms of the Federal or Oklahoma
18 Social Security Act and other exemptions that may be available to
19 the defendant, and that any such claim should be filed with the
20 court clerk within five (5) days from receipt of notice in a form
21 prescribed by the ~~Administrative Director of the Courts~~ Oklahoma Bar
22 Association, requesting a hearing as to the status of any assets
23 which the defendant asserts are exempt. Any proceeding to claim an
24

1 exemption initiated subsequent to five (5) days after receipt of
2 notice shall be by motion unless otherwise agreed by the parties.

3 D. The Administrative Office of the Courts shall provide public
4 access to both the notice and claim for exemption by providing links
5 to the forms on the Oklahoma State Courts Network (OSCN) website.

6 E. Said notification may be accomplished by:

7 1. Serving a copy of the garnishee summons on the defendant or
8 on his or her attorney of record in the manner provided for the
9 service of summons; or

10 2. Sending the notice or a copy of the garnishee summons to the
11 defendant or his or her attorney of record by registered or
12 certified mail with return receipt requested, which receipt shall be
13 filed in the action; or

14 3. Attaching the notice on the summons issued in the principal
15 action prior to its service; or

16 4. Including the notice in the publication notice when service
17 in the principal action is by publication; or

18 5. Publication one time in a newspaper of general circulation
19 in the county in which the action is filed at least five (5) days
20 prior to the date on which the garnishee's answer is due if the
21 defendant is a nonresident or if the defendant's whereabouts are
22 unknown to plaintiff.

23 SECTION 9. AMENDATORY 12 O.S. 2021, Section 1178, is
24 amended to read as follows:

1 Section 1178. A. For the purposes of this section, "earnings"
2 means any form of payment to an individual including, but not
3 limited to, salary, wages, commission, or other compensation, but
4 does not include reimbursement for travel expenses for state
5 employees.

6 B. Where the garnishment summons is on earnings and is issued
7 under Section 1173 of this title, the garnishee shall, within seven
8 (7) days after the end of defendant's present pay period or where a
9 payment of earnings is due, or thirty (30) days from the service of
10 the summons, whichever is earlier, file an affidavit with the clerk
11 of the court in which the action is pending and deliver or mail a
12 copy thereof to the judgment creditor or the judgment creditor's
13 attorney of record. The affidavit shall state:

14 1. Whether the garnishee was the employer of or indebted or
15 under any liability to the defendant named in the notice in any
16 manner or upon any account for earnings or wages, specifying, as
17 applicable, the beginning and ending dates of the pay period
18 existing at the time of the service of the garnishee summons, the
19 total amounts earned in the pay period, and all of the facts and
20 circumstances necessary to a complete understanding of such
21 indebtedness or liability. When the garnishee shall be in doubt
22 respecting any such liability or indebtedness, the garnishee may set
23 forth all of the facts and circumstances concerning the same, and
24 submit the question to the court;

1 2. If the garnishee shall claim any setoff, defense, other
2 indebtedness, liability, lien, or claim to such property, the facts
3 and circumstances in the affidavit;

4 3. At the garnishee's option, any claim of exemption from
5 execution on the part of the defendant, or other objection known to
6 the garnishee against the right of the judgment creditor to apply
7 the indebtedness or property disclosed;

8 4. If the garnishee shall disclose any indebtedness or the
9 possession of any property to which the defendant, or any other
10 person, makes claim, at the garnishee's option, the names and
11 addresses of such other claimants and, so far as known, the nature
12 of the claims; and

13 5. The garnishee shall state that he or she has mailed or hand-
14 delivered a copy of the notice of garnishment and exemptions,
15 application for hearing, and the manner and date of compliance.

16 C. The garnishee's answer shall be on a form prescribed by the
17 ~~Administrative Office of the Courts~~ Oklahoma Bar Association. The
18 Administrative Office of the Courts shall provide public access to
19 the garnishee's answer by providing a link to the form on the
20 Oklahoma State Courts Network (OSCN) website.

21 SECTION 10. AMENDATORY 12 O.S. 2021, Section 1178.1, is
22 amended to read as follows:

23 Section 1178.1 A. For the purposes of this section, "wages" or
24 "earnings" means any form of payment to an individual including, but

1 not limited to, salary, commission, or other compensation, but does
2 not include reimbursement for travel expenses for state employees.

3 B. Where the garnishment summons is for the collection of
4 support and is issued under Section 1173.2 of this title, the
5 garnishee shall, within ten (10) days from the service of the
6 garnishee's summons or within seven (7) days after the end of
7 defendant's current pay period or thirty (30) days from the date of
8 service of this summons, whichever is earlier, file an affidavit
9 with the clerk of the court in which the action is pending and
10 deliver or mail a copy thereof to the judgment creditor's attorney
11 or to the judgment creditor if there is no attorney. The affidavit
12 shall state:

13 1. Whether the garnishee was the employer of or indebted or
14 under any liability to the defendant named in the notice in any
15 manner or upon any account for earnings or wages specifying, as
16 applicable, the beginning and ending dates of the pay period
17 existing at the time of the service of the affidavit and summons,
18 the total amounts earned in the pay period and all of the facts and
19 circumstances necessary to a complete understanding of such
20 indebtedness or liability. When the garnishee shall be in doubt
21 respecting any such liability or indebtedness, the garnishee may set
22 forth all of the facts and circumstances concerning the same, and
23 submit the question to the court;

24

1 2. Whether the garnishee was indebted or under any liability to
2 or had in garnishee's possession or control, any property belonging
3 to the defendant. When the garnishee shall be in doubt respecting
4 any such liability or indebtedness, the garnishee may set forth all
5 of the facts and circumstances concerning the same, and submit the
6 question to the court;

7 3. If the garnishee shall claim any setoff, defense, other
8 indebtedness, liability, lien, or claim to such property, the facts
9 and circumstances in the affidavit;

10 4. At the garnishee's option any claim of exemption from
11 execution on the part of the defendant, or other objection known to
12 the garnishee against the right of the judgment creditor, to apply
13 the indebtedness or property disclosed;

14 5. If the garnishee shall disclose any indebtedness or the
15 possession of any property to which the defendant or any other
16 person, makes claim, at the garnishee's option the names and
17 addresses of such other claimants and, so far as known, the nature
18 of the claims; and

19 6. That the garnishee has mailed or hand-delivered a copy of
20 the notice of garnishment and exemptions, application for hearing,
21 and the manner and date of compliance.

22 C. The answer of the garnishee shall be on a form prescribed by
23 the ~~Administrative Office of the Courts~~ Oklahoma Bar Association.
24 The Administrative Office of the Courts shall provide public access

1 to the garnishee's answer by providing a link to the form on the
2 Oklahoma State Courts Network (OSCN) website.

3 SECTION 11. AMENDATORY 12 O.S. 2021, Section 1178.2, is
4 amended to read as follows:

5 Section 1178.2 A. Where the garnishment summons is not on
6 earnings, is not for the collection of child support and is issued
7 under Section 1173.3 of this title, then unless the garnishee shall
8 make the affidavit provided for in Section 1176 of this title, the
9 garnishee shall, within ten (10) days from the service of the
10 garnishee's summons, file an affidavit with the clerk of the court
11 in which the action is pending and deliver or mail a copy thereof to
12 the judgment creditor's attorney or to the judgment creditor if
13 there is no attorney. The affidavit shall state:

14 1. Whether the garnishee was indebted or under any liability to
15 the defendant named in the notice in any manner or upon any account
16 specifying if indebted or liable, the amount, the interest thereon,
17 the manner in which evidenced, when payable, whether an absolute or
18 contingent liability and all of the facts and circumstances
19 necessary to a complete understanding of such indebtedness or
20 liability. When the garnishee shall be in doubt respecting any such
21 liability or indebtedness, the garnishee may set forth all of the
22 facts and circumstances concerning the same, and submit the question
23 to the court;

24

1 2. Whether the garnishee was indebted or under any liability to
2 or had in garnishee's possession or control, any property belonging
3 to the defendant. When the garnishee shall be in doubt respecting
4 any such liability or indebtedness, the garnishee may set forth all
5 of the facts and circumstances concerning the same, and submit the
6 question to the court;

7 3. If the garnishee shall claim any setoff, defense, other
8 indebtedness, liability, lien, or claim to such property, the facts
9 and circumstances in the affidavit;

10 4. At the garnishee's option, any claim of exemption from
11 execution on the part of the defendant, or other objection known to
12 the garnishee against the right of the judgment creditor to apply
13 the indebtedness or property disclosed;

14 5. If the garnishee shall disclose any indebtedness or the
15 possession of any property to which the defendant or any other
16 person makes claim, at the garnishee's option, the names and
17 addresses of such other claimants and, so far as known, the nature
18 of the claims; and

19 6. That the garnishee has mailed or hand-delivered a copy of
20 the notice of garnishment and exemptions, application for hearing,
21 and the manner and date of compliance.

22 B. The answer of the garnishee shall be on a form prescribed by
23 the ~~Administrative Office of the Courts~~ Oklahoma Bar Association.
24 The Administrative Office of the Courts shall provide public access

1 to the garnishee's answer by providing a link to the form on the
2 Oklahoma State Courts Network (OSCN) website.

3 SECTION 12. AMENDATORY 12 O.S. 2021, Section 1772, is
4 amended to read as follows:

5 Section 1772. Judgments for the payment of money shall be
6 processed and collected as follows:

7 1. Incident to the entering of the judgment and while the
8 parties are still under oath:

9 a. the court may arrange a judgment satisfaction plan and
10 enter a writ of execution, and

11 b. the court may secure a listing and description of the
12 judgment debtor's assets from the judgment debtor in
13 case subsequent attachment of property becomes
14 necessary to collect an unsatisfied judgment. Forms
15 for an application and order to appear and answer as
16 to assets and interrogatories to be answered by the
17 debtor shall be supplied by the court clerk on forms
18 promulgated by the ~~Director of the Administrative~~
19 ~~Office of the Courts~~ Oklahoma Bar Association.

20 2. If the judgment debtor fails to satisfy the judgment in
21 accordance with the judgment satisfaction plan, the judgment
22 creditor shall attempt to contact the judgment debtor and collect
23 the same.

24

1 3. If the judgment debtor still fails to satisfy the judgment,
2 the judgment creditor may:

- 3 a. require the debtor to appear and answer
4 interrogatories regarding assets, or
5 b. request the issuance of a writ of execution or a
6 garnishment summons on forms provided by the court
7 clerk.

8 4. Except as provided in this section, proceedings hereunder to
9 collect the judgment shall be conducted pursuant to the provisions
10 of this title.

11 SECTION 13. This act shall become effective November 1, 2023.

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
13 April 11, 2023 - DO PASS
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