



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-3208/1
KRP:cdc

2023 SENATE BILL 327

June 7, 2023 - Introduced by Senators HUTTON, CABRAL-GUEVARA, WANGGAARD, BALLWEG and STROEBEL, cosponsored by Representatives TUSLER, ALLEN, BEHNKE, CONLEY, GUSTAFSON, KITCHENS, MURPHY, O'CONNOR, PENTERMAN, RETTINGER, ROZAR, SPIROS and WICHGERS. Referred to Committee on Labor, Regulatory Reform, Veterans and Military Affairs.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to repeal* 812.40, 812.405 and 812.42 (2) (b); *to renumber and amend*
2 812.39 (1) and 812.39 (2); *to amend* 812.33 (1), 812.35 (5), 812.35 (6), 812.38
3 (2), 812.44 (3) and 812.44 (4); and *to create* 812.39 (1) (a), 812.39 (1) (b), 812.39
4 (1) (c), 812.39 (2) (b), 812.39 (2m) and 812.395 of the statutes; **relating to:**
5 eliminating the 13-week limit on the garnishment of earnings of certain
6 debtors.

Analysis by the Legislative Reference Bureau

This bill eliminates the 13-week limit imposed on the garnishment of earnings of certain debtors. Under current law, a creditor may file a garnishment notice with a court and pay a fee to a garnishee for the purpose of collecting an unsatisfied judgment for money damages from earnings owed to the debtor by the garnishee. Current law limits the number of weeks in which the earnings of a debtor, other than a debtor who is an employee of the state or a political subdivision of the state, may be garnished to 13 weeks.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 **SECTION 1.** 812.33 (1) of the statutes is amended to read:

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1 812.33 (1) The creditor shall pay a \$15 fee to the garnishee for each earnings
2 garnishment ~~or each stipulated extension of that earnings garnishment, except that~~
3 there is no fee for a garnishment to satisfy an order for restitution under s. 973.20
4 (1r). This fee shall be included as a cost in the creditor's claim in the earnings
5 garnishment.

6 **SECTION 2.** 812.35 (5) of the statutes is amended to read:

7 812.35 (5) Upon being served, the garnishee shall determine whether the
8 garnishee may become obligated to the debtor for earnings earned within pay periods
9 beginning ~~within 13 weeks~~ after the date of service. If it is unlikely that the
10 garnishee will become so obligated, the garnishee shall send a statement of that fact
11 to the creditor by the end of the 7th business day after receiving the earnings
12 garnishment form under sub. (3). The creditor shall send a copy of this statement
13 to the court within 7 business days after receipt of the statement.

14 **SECTION 3.** 812.35 (6) of the statutes is amended to read:

15 812.35 (6) If the garnishee may become obligated to the debtor for earnings
16 earned within pay periods beginning ~~within 13 weeks~~ after the date of service, but
17 one or more earnings garnishments against the debtor have already been served on
18 the garnishee and not terminated, the garnishee shall ~~retain the earnings~~
19 ~~garnishment form and place the garnishment into effect the pay period after the last~~
20 ~~of any prior earnings garnishments terminates.~~ The garnishee shall notify the
21 debtor of the amount of the garnishment and shall notify the creditor of the amount
22 owed on the pending garnishments that one or more earnings garnishments are in
23 effect against the debtor by the end of the 7th business day after receipt of the
24 garnishment form under sub. (3). Unless s. 812.39 (2) or (2m) applies to the debtor,
25 the garnishee shall recalculate the amount to pay to each creditor for which an

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1 earnings garnishment remains in effect using the procedure under s. 812.39 (1). If
2 s. 812.39 (2) or (2m) applies, the garnishee shall recalculate the amount to pay to each
3 creditor for which an earnings garnishment remains in effect using the procedure
4 under s. 812.39 (2) or (2m), whichever applies. After making the recalculation
5 required under this subsection, the garnishee shall, subject to the exemption under
6 s. 812.34 (2) and the limits under s. 812.39 (2) and (2m) on the total earnings that
7 may be garnished, place the garnishment into effect for the pay period falling after
8 the 7th business day after receipt of the garnishment form. If, before the earnings
9 garnishment takes effect, the garnishee determines that it is unlikely that the
10 garnishee will continue to be obligated to the debtor for earnings, the garnishee shall
11 notify the creditor and court under sub. (5) within 7 business days after making that
12 determination.

13 **SECTION 4.** 812.38 (2) of the statutes is amended to read:

14 812.38 (2) A motion or petition under sub. (1) may be made at any time during
15 the pendency of the earnings garnishment. Within 5 business days after a motion
16 or petition is filed under sub. (1), the court shall schedule the matter for a hearing
17 to be held as promptly as practicable. The court shall notify the parties of the time
18 and place of the hearing. Upon conclusion of the hearing, the court shall make
19 findings of fact and conclusions of law. The court shall make such order as required
20 by these findings and conclusions. ~~If the order permits the garnishment to proceed,~~
21 ~~the date on which the order is served upon the garnishee shall substitute for the~~
22 ~~original date of service of the garnishment upon the garnishee under s. 812.35 (3) for~~
23 ~~the purpose of determining any 13-week period under s. 812.35 (5) or (6).~~ A court
24 order shall bind the garnishee from the time the order is served upon ~~him or her~~ the
25 garnishee.

SENATE BILL 327**SECTION 5**

1 **SECTION 5.** 812.39 (1) of the statutes is renumbered 812.39 (1) (intro.) and
2 amended to read:

3 812.39 (1) (intro.) Between 5 and 10 business days after the payday of each pay
4 period in which the debtor's earnings are subject to the earnings garnishment, the
5 garnishee shall, subject to the exemption under s. 812.34 (2) and except as provided
6 in subs. (2) and (2m), pay the creditor that portion of the debtor's nonexempt
7 disposable earnings to which the creditor is entitled. If the debtor's earnings are
8 already being garnished by one or more earnings garnishments when the garnishee
9 is served under s. 812.35 (3) (b) by a creditor with a garnishment form to recover an
10 amount owed by that debtor, the garnishee shall, subject to the exemption under s.
11 812.34 (2) and except as provided in subs. (2) and (2m), do all of the following:

12 **SECTION 6.** 812.39 (1) (a) of the statutes is created to read:

13 812.39 (1) (a) Determine 20 percent of the debtor's disposable earnings.

14 **SECTION 7.** 812.39 (1) (b) of the statutes is created to read:

15 812.39 (1) (b) Divide the quotient under par. (a) by the total number of
16 creditors.

17 **SECTION 8.** 812.39 (1) (c) of the statutes is created to read:

18 812.39 (1) (c) Pay each creditor the amount determined under par. (b).

19 **SECTION 9.** 812.39 (2) of the statutes is renumbered 812.39 (2) (a) and amended
20 to read:

21 812.39 (2) (a) Court-ordered assignments of the debtor's earnings for support
22 or maintenance under ch. 767, regardless of the date the garnishee first receives
23 notice of the assignment, take priority over an earnings garnishment under this
24 subchapter. If and take priority over a garnishment to satisfy an order for restitution
25 under s. 973.20 (1r). Except as provided in par. (b), if the debtor's earnings are subject

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1 to assignment under s. 767.75, the creditor, including a creditor entitled to an
2 earnings garnishment to satisfy an order for restitution under s. 973.20 (1r), shall
3 not be entitled to an amount greater than 25 percent of the debtor's disposable
4 earnings less the amount assigned under s. 767.75. If the garnishee determines that
5 the amount to be garnished pursuant to an order under s. 767.75 is equal to or greater
6 than 25 percent of the debtor's disposable earnings, the garnishee shall notify the
7 creditor and the court under s. 812.35 (5) within 7 business days after making that
8 determination.

9 **SECTION 10.** 812.39 (2) (b) of the statutes is created to read:

10 812.39 (2) (b) If one or more earnings garnishments are in effect for a debtor
11 whose earnings are subject to assignment under s. 767.75, the garnishee shall, if the
12 amount assigned under s. 767.75 is less than 25 percent of the debtor's disposable
13 earnings, do all of the following:

14 1. Determine the difference between 25 percent of the debtor's disposable
15 income and the sum of the following:

16 a. The amount assigned under s. 767.75.

17 b. The amount, if any, to be garnished to satisfy an order for restitution under
18 s. 973.20 (1r).

19 2. a. If the difference determined under subd. 1. is less than 25 percent of the
20 debtor's disposable income, divide the difference under subd. 1. by the number of
21 creditors.

22 b. Pay each creditor the amount determined under subd. 2. a.

23 3. If the difference determined under subd. 1. is 25 percent or more of the
24 debtor's disposable income, notify the creditor and court under s. 812.35 (5) within
25 7 business days after making that determination.

SENATE BILL 327**SECTION 11**

1 **SECTION 11.** 812.39 (2m) of the statutes is created to read:

2 812.39 **(2m)** (a) Court-ordered garnishment of the debtor's earnings to satisfy
3 an order for restitution under s. 973.20 (1r), regardless of the date the garnishee first
4 receives notice of the court-ordered garnishment, takes priority over an earnings
5 garnishment under this subchapter. Subject to sub. (2), and except as provided in
6 pars. (b) and (c), if the debtor's earnings are subject to garnishment under s. 973.20
7 (1r), the creditor shall not be entitled to an amount greater than 20 percent of the
8 debtor's disposable earnings less the amount to be garnished pursuant to court order
9 under s. 973.20 (1r).

10 (b) If one or more earnings garnishments are in effect for a debtor who owes
11 restitution under s. 973.20 (1r), the garnishee shall, subject to sub. (2) and except as
12 provided in par. (c), do all of the following:

13 1. Determine the difference between 20 percent of the debtor's disposable
14 income and the amount to be garnished to satisfy an order for restitution under s.
15 973.20 (1r).

16 2. Divide the difference under subd. 1. by the number of creditors.

17 3. Pay each creditor the amount determined under subd. 2.

18 (c) If the garnishee determines that the amount to be garnished pursuant to
19 court order under s. 973.20 (1r) is equal to or greater than 20 percent of the debtor's
20 disposable earnings, the garnishee shall notify each creditor and court under s.
21 812.35 (5) within 7 business days after making that determination.

22 **SECTION 12.** 812.395 of the statutes is created to read:

23 **812.395 Garnishment of earnings remains in effect; notice to debtor.**

24 **(1)** A garnishment of earnings payable to a debtor, including a debtor who owes

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1 victim restitution ordered under s. 973.20 (1r), remains valid and effective until the
2 judgment is satisfied, unless sooner terminated by order of the court.

3 (2) For a garnishment of earnings that extends beyond a 13-week period,
4 following the first 13-week period the creditor shall, at least 3 business days before
5 the payday of the first pay period of each subsequent 13-week period during the
6 effective period of a garnishment and until the judgment is satisfied or the
7 garnishment is terminated by order of the court, serve the earnings garnishment
8 form issued by the clerk of courts under s. 812.35 (2) upon the debtor by one of the
9 following means:

- 10 (a) First class mail.
- 11 (b) Certified mail, return receipt requested.
- 12 (c) Any means permissible for the service of a summons in a civil action, other
13 than publication.

14 **SECTION 13.** 812.40 of the statutes is repealed.

15 **SECTION 14.** 812.405 of the statutes is repealed.

16 **SECTION 15.** 812.42 (2) (b) of the statutes is repealed.

17 **SECTION 16.** 812.44 (3) of the statutes is amended to read:

18 812.44 (3) The earnings garnishment form issued by the clerk under s. 812.35
19 (2) shall be in substantially the following form:

20 STATE OF WISCONSIN
21 CIRCUIT COURT: County

22
23 A.B., Creditor
24 vs. File or Reference Number
25 C.D., Debtor EARNINGS

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1 3. Whenever you receive a debtor's answer form from the debtor, mail a copy of
2 the answer form to the creditor by the end of the 3rd business day after receipt of that
3 form. Include the date you received the answer form on the copy sent to the creditor.

4 4. If the debtor's answer form claims a complete exemption or defense, do not
5 withhold or pay to the creditor any part of the debtor's earnings under this
6 garnishment unless you receive an order of the court directing you to do so.

7 MULTIPLE EARNINGS GARNISHMENTS

8 5. If the debtor's earnings are already being garnisheed when you receive this
9 earnings garnishment, ~~place this earnings garnishment into effect the pay period~~
10 ~~after the last of any prior earnings garnishments terminates.~~ Notify ~~notify~~ the
11 debtor of the amount of the garnishment and notify the creditor of the amount owed
12 on the pending garnishments by the end of the 7th business day after you receive
13 these forms. ~~If there are no prior pending earnings garnishments against the~~
14 ~~debtor's earnings,~~ Determine the amount you will pay to each creditor using the
15 method described in the section titled "PAYING THE CREDITOR; PAYING
16 MULTIPLE CREDITORS" ~~and~~ place this earnings garnishment into effect the pay
17 period that begins at the end of the 7th business day after you receive it.

18 EARNINGS GARNISHMENTS

19 ~~LAST 13 WEEKS, EXCEPT~~

20 ~~FOR PUBLIC EMPLOYEES AND~~

21 ~~EXCEPT FOR GARNISHMENTS TO~~

22 ~~SATISFY AN ORDER FOR VICTIM~~

23 ~~RESTITUTION REMAIN IN EFFECT~~

24 ~~UNTIL THE JUDGMENT IS SATISFIED~~

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1 6. The garnishment of the earnings of employees of the state of Wisconsin and
2 its political subdivisions, and a garnishment to satisfy an order for victim restitution
3 under s. 973.20 (1r) for victim restitution remains in effect until the judgment is
4 satisfied. ~~The garnishment of earnings of other employees will affect the debtor's~~
5 ~~earnings for all pay periods beginning within 13 weeks after you receive it, unless~~
6 ~~the debtor's earnings are already being garnished. If this earnings garnishment is~~
7 ~~delayed under paragraph 5, above, it will affect the debtor's earnings for all pay~~
8 ~~periods beginning within 13 weeks after the first day of the pay period that you put~~
9 ~~this earnings garnishment into effect. If the amount claimed by the creditor is fully~~
10 ~~paid before the end of the 13 weeks, this earnings garnishment will terminate at that~~
11 ~~point.~~

12 PAYING THE CREDITOR; PAYING MULTIPLE CREDITORS

13 7. Between 5 and 10 business days after each payday of a pay period affected
14 by this earnings garnishment, pay the creditor 20% of the debtor's disposable
15 earnings for that pay period. If this earnings garnishment is one of 2 or more
16 earnings garnishments issued for this debtor, before paying any creditor, first
17 determine 20% of the debtor's disposable earnings for the pay period and then divide
18 that amount equally between all creditors. Payment is complete upon mailing.

19 EFFECT OF COURT-ORDERED

20 ASSIGNMENTS FOR SUPPORT

21 8. If the debtor has assigned his or her earnings for support by court order, those
22 support payments take priority over this earnings garnishment. If 25% or more of
23 the debtor's disposable earnings is assigned for support by court order, do not pay any
24 part of the debtor's earnings to the creditor. Instead, send the creditor a statement
25 of that fact by the end of the 7th business day after you receive these forms. If less

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1 than 25% of the debtor's earnings is assigned for support by court order, the amount
2 the creditor must be paid is reduced so that the total of earnings assigned and
3 garnisheed, earnings garnished to satisfy an order for restitution under s. 973.20
4 (1r), this wage garnishment, and all other wage garnishments in effect for this debtor
5 does not exceed 25% of the debtor's disposable earnings. If this earnings
6 garnishment is one of 2 or more earnings garnishments issued for this debtor and if
7 25% or more of the debtor's disposable earnings is assigned for support by court
8 order, do not pay any part of the debtor's earnings to any creditor. Instead, send the
9 creditor a statement of that fact by the end of the 7th business day after you receive
10 these forms. If this earnings garnishment is one of 2 or more earnings garnishments
11 issued for this debtor and if less than 25% of the debtor's disposable earnings is
12 assigned for support by court order, determine the amount each creditor must be paid
13 by first determining the difference between 25% of the debtor's disposable earnings
14 and the amount assigned for support by court order and then dividing the difference
15 by the number of creditors. If this earnings garnishment is one of 2 or more earnings
16 garnishments issued for this debtor and if less than 25% of the debtor's disposable
17 earnings is assigned for support by court order and if this debtor's earnings are also
18 being garnished to satisfy an order for restitution under s. 973.20 (1r), determine the
19 amount each creditor must be paid by first determining the difference between 25%
20 of the debtor's disposable earnings and the sum of the amount assigned for support
21 by court order and the amount garnished to satisfy an order for restitution. Then,
22 divide the difference by the number of creditors.

23 EXTENSIONS EFFECT OF A GARNISHMENT
24 TO SATISFY AN ORDER FOR RESTITUTION

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1 9. ~~The debtor and creditor may agree in writing to extend this earnings~~
2 ~~garnishment for additional pay periods beginning within 13 weeks after this~~
3 ~~earnings garnishment would otherwise terminate. If you receive a written extension~~
4 ~~stipulation, and an additional garnishee fee for each extension, you must honor it~~
5 ~~unless a different garnishment against this debtor's earnings is served upon you~~
6 ~~before the extension takes effect. In that case, the extension is void and you must~~
7 ~~return the extension fee to the party who paid it to you~~ If the earnings payable to a
8 debtor who owes restitution under a court order are being garnished to satisfy that
9 order for restitution, those restitution payments take priority over this earnings
10 garnishment. If 20% or more of the debtor's disposable earnings is being garnished
11 to satisfy an order for restitution, do not pay any part of the debtor's earnings to the
12 creditor. Instead, send the creditor a statement of that fact by the end of the 7th
13 business day after you receive these forms. If less than 20% of the debtor's earnings
14 is being garnished to satisfy an order for restitution, the amount the creditor must
15 be paid is reduced so that the total of earnings garnished for restitution and
16 garnished under this earnings garnishment and any other earnings garnishments
17 in effect for this debtor does not exceed 20% of the debtor's disposable earnings. If
18 this earnings garnishment is one of 2 or more earnings garnishments issued for this
19 debtor and if 20% or more of the debtor's disposable earnings is being garnished to
20 satisfy an order for restitution, do not pay any part of the debtor's earnings to any
21 creditor. Instead, send the creditor a statement of that fact by the end of the 7th
22 business day after you receive these forms. If this earnings garnishment is one of 2
23 or more earnings garnishments issued for this debtor, and if less than 20% of the
24 debtor's disposable earnings is being garnished to satisfy an order for restitution,
25 determine the amount each creditor must be paid by first determining the difference

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1 between 20% of the debtor's disposable earnings and the amount being garnished to
2 satisfy an order for restitution and then dividing the difference by the number of
3 creditors.

4 **SECTION 17.** 812.44 (4) of the statutes is amended to read:

5 812.44 (4) The notice of exemption served upon the garnishee under s. 812.35
6 (4) shall be in substantially the following form:

7 STATE OF WISCONSIN

8 CIRCUIT COURT: County

9 _____

10 A.B., Creditor

11 vs.

File or Reference Number

12 C.D., Debtor

EXEMPTION NOTICE

13 and

EARNINGS GARNISHMENT

14 E.F., Garnishee

15 _____

16 To the debtor:

17 The creditor was awarded a judgment against you or your spouse by (County
18 Circuit or Federal District) Court on the day of, (year). That judgment not
19 having been fully paid, the creditor has now filed a garnishment proceeding against
20 your earnings from the garnishee. This means that the creditor is seeking to take
21 some of your earnings to satisfy part or all of the judgment against you or your
22 spouse.

23 The total amount of the creditor's claim is as follows:

24 Unpaid balance on judgment \$....

25 Unpaid postjudgment interest \$....

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1	Costs:	
2	a. Garnishment filing fee	\$....
3	b. Garnishee fee	\$....
4	c. Service of process (estimate)	\$....
5	TOTAL	\$....

6 By law, you are entitled to an exemption of not less than 80% of your disposable
7 earnings. Your “disposable earnings” are those remaining after social security and
8 federal and state income taxes are withheld.

9 Your earnings are completely exempt from garnishment if:

10 1. Your household income is below the federal poverty level. See the enclosed
11 schedules and worksheet to determine if you qualify for this exemption.

12 2. You receive aid to families with dependent children, relief funded by a relief
13 block grant under ch. 49, relief provided by counties under section s. 59.53 (21) of the
14 Wisconsin Statutes, medical assistance, supplemental security income, food stamps,
15 or veterans benefits based on need under 38 USC 1501 to 1562 or section 45.351 (1)
16 of the Wisconsin Statutes, or have received these benefits within the past 6 months.

17 3. At least 25% of your disposable earnings are assigned by court order for
18 support.

19 If the garnishment of 20% of your disposable income would result in the income
20 of your household being below the poverty line, the garnishment is limited to the
21 amount of your household’s income in excess of the poverty line.

22 If you qualify for a complete exemption or for a limit on the amount of the
23 garnishment to the amount that your household’s income exceeds the poverty line,
24 you must give or mail a copy of the enclosed debtor’s answer form to the garnishee
25 in order to receive that increased exemption.

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1 If your circumstances change while the garnishment is in effect, you may file
2 a new answer at any time.

3 If you do not qualify for a complete exemption, but you will not be able to acquire
4 the necessities of life for yourself and your dependents if your earnings are reduced
5 by this earnings garnishment, you may ask the court in which this earnings
6 garnishment was filed to increase your exemption or grant you other relief.

7 IF YOU NEED ASSISTANCE

8 CONSULT AN ATTORNEY

9 If you have earnings that are being garnisheed garnished that are exempt or
10 subject to a defense, the sooner you file your answer or seek relief from the court, the
11 sooner such relief can be provided. This earnings garnishment affects your earnings
12 in pay periods beginning within 13 weeks after it was served on the garnishee. You
13 may agree in writing with the creditor to extend it for additional 13-week periods
14 until the debt is paid.

15 PENALTIES

16 If you wrongly claim an exemption or defense in bad faith, or if the creditor
17 wrongly objects to your claim in bad faith, the court may order the person who acted
18 in bad faith to pay court costs, actual damages, and reasonable attorney fees.

19 **SECTION 18. Initial applicability.**

20 (1) This act first applies to an earnings garnishment proceeding commenced on
21 the effective date of this subsection.

22 (END)