National Consumer Law Center

# Wage Garnishment for Consumer Debts: Reforms Needed in the Current Crisis and Beyond

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## WAGE GARNISHMENT FOR CONSUMER DEBTS

Wage garnishment for consumer debts may occur after a creditor goes to court and wins a judgment against a consumer. A judgment is a court decision that the consumer owes a specific sum, allowing a creditor to take steps to seize a portion of the consumer's wages to pay the judgment.

The employer administers wage garnishment by taking money from the consumer's paycheck and sending it to the creditor. The consumer never sees that money and cannot use it to pay for necessities such as rent, food, and child care. Instead, the money goes to pay old debt, such as medical or credit card debts, which the creditor may have purchased for pennies on the dollar.

With unemployment nearing rates last seen in the Great Depression, many Americans will be unable to pay judgments for old debts in addition to current bills for food, rent, and medical costs. Garnishment of wages to collect these judgments risks destabilizing family finances and local businesses that depend on consumer spending just as the economy reopens.

Congress needs to enact a national moratorium on wage garnishment until the end of the economic crisis to protect families and communities struggling to get back on their feet.

## MILLIONS HIT HARD BY GARNISHMENT FOR CONSUMER DEBT

Over 4 million American workers have wage garnishments for consumer debts, not counting garnishments for child support, taxes or bankruptcy. Reports from 2014 and 2017 by payroll processing company ADP reveal the following facts about garnishment for consumer debts:

- Nationally, 2.9% of the workforce has paychecks garnished for consumer debts, including: student loan, consumer, and credit card debts. Applying that rate to the entire U.S. workforce would mean more than 4.5 million workers were garnished for consumer debts in 2019.
- The Midwest has the highest rate of garnishment for consumer debts in the country – 40% higher than the national rate. Indiana's rate of garnishment is almost double the national rate and Michigan is more than 70% higher.
- Manufacturing is the employment sector with the highest rate of garnishment for consumer debts (3.8%).
- Low and moderate wage workers have the highest garnishment rates for consumer debts, ranging as high as 4.6% of workers earning $25,000 to $39,999 per year.

## CURRENT LAW: WEAK FEDERAL & VARIED STATE PROTECTIONS

### Federal Law

Federal law protects 75% of a wage earner's paycheck or 30 times the federal minimum wage (whichever is greater) from garnishment for consumer debts. This means that the creditor can take up to 25% of the employee's paycheck and can reduce a debtor's paycheck to as little as $217.50 per week (30 times the current minimum wage of $7.25 an hour).

Federal law does not provide any protection for wages after they are deposited into the employee's bank account, which means that deposited wages are vulnerable to garnishment of a bank account unless protected by state law. Courts are split as to whether income is protected under federal (or state) law if the consumer is an independent contractor and not an employee.

### State Law

Federal law gives states the option of protecting a larger portion of a debtor's paycheck. State law protections include 4 states (North Carolina, Pennsylvania, South Carolina, and Texas) that ban wage garnishment for consumer debts. Thirty-three states, the District of Columbia, and the Virgin Islands protect more than the federal minimum amount of wages in garnishments for consumer debts.

Some states have laws that can be used to protect some deposited wages from garnishment.

## REFORMS NEEDED IN THE CURRENT CRISIS AND BEYOND

### Temporary Moratorium on Wage Garnishment Needed Now

A national moratorium on wage garnishment is needed until the economic crisis has passed. Many states have adopted emergency measures to temporarily suspend wage and bank account garnishments. However, such measures are not in place everywhere, many are expiring, and wage garnishment will become more prevalent as state courts reopen.

States can also issue temporary moratoriums on wage garnishment or extend existing emergency orders.

### Permanent Wage Garnishment Reforms

Lawmakers should also enact the following permanent wage garnishment reforms:

- Increase the amount of wages that are protected from garnishment to 80 times the federal or state minimum wage (whichever is greater);
- Protect the income of independent contractors;
- Protect employees with multiple garnishment orders from being fired; and
- Protect wages even after they are deposited into bank accounts.

While these reforms can be enacted by federal or state governments, states should not wait for Congress to act. Consumers need protections ***now*** from the current financial crisis.

For more information, see NCLC's report *No Fresh Start in 2019: How States Still Let Debt Collectors Push Families into Poverty* and NCLC's Model Family Financial Protection Act.

**Questions?** Contact April Kuehnhoff (akuehnhoff@nclc.org).