



**ASSEMBLY AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 346**

October 23, 2003 – Offered by Representatives OWENS, KRUSICK and STASKUNAS.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 16: after that line insert:

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

4 812.35 (5) ~~Upon~~ Except as provided in sub. (7), after being served, the  
5 garnishee shall determine whether the garnishee may become obligated to the  
6 debtor for earnings earned within pay periods beginning within 13 weeks after the  
7 date of service. If it is unlikely that the garnishee will become so obligated, the  
8 garnishee shall send a statement of that fact to the creditor by the end of the 7th  
9 business day after receiving the earnings garnishment form under sub. (3). The  
10 creditor shall send a copy of this statement to the court within 7 business days after  
11 receipt of the statement.

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

1           812.35 (6) If Except as provided in sub. (7), if the garnishee may become  
2 obligated to the debtor for earnings earned within pay periods beginning within 13  
3 weeks after the date of service, but one or more earnings garnishments against the  
4 debtor have already been served on the garnishee and not terminated, the garnishee  
5 shall retain the earnings garnishment form and place the garnishment into effect the  
6 pay period after the last of any prior earnings garnishments terminates. The  
7 garnishee shall notify the debtor of the amount of the garnishment and shall notify  
8 the creditor of the amount owed on the pending garnishments by the end of the 7th  
9 business day after receipt of the garnishment form under sub. (3). If, before the  
10 earnings garnishment takes effect, the garnishee determines that it is unlikely that  
11 the garnishee will continue to be obligated to the debtor for earnings, the garnishee  
12 shall notify the creditor and court under sub. (5) within 7 business days after making  
13 that determination.

14           **SECTION 2m.** 812.35 (7) of the statutes is created to read:

15           812.35 (7) (a) If the debtor is an unemancipated minor, the garnishment shall  
16 continue until the amount that the creditor is seeking in the garnishment is paid in  
17 full. The garnishee shall determine whether the garnishee may become obligated to  
18 the debtor for earnings earned after the date of service. If it is unlikely that the  
19 garnishee will become so obligated, the garnishee shall send a statement of that fact  
20 to the creditor by the end of the 7th business day after receiving the earnings  
21 garnishment form under sub. (3). The creditor shall send a copy of this statement  
22 to the court within 7 business days after receipt of the statement.

23           (b) If the garnishee may become obligated to the debtor for earnings earned  
24 within pay periods beginning after the date of service, but one or more earnings  
25 garnishments against the debtor have already been served on the garnishee and not

1 terminated, the garnishee shall retain the earnings garnishment form and place the  
2 garnishment into effect the pay period after the last of any prior earnings  
3 garnishments terminates. The garnishee shall notify the debtor of the amount of the  
4 garnishment and shall notify the creditor of the amount owed on the pending  
5 garnishments by the end of the 7th business day after receipt of the garnishment  
6 form under sub. (3). If before the earnings garnishment takes effect the garnishee  
7 determines that it is unlikely that the garnishee will continue to be obligated to the  
8 debtor for earnings, the garnishee shall notify the creditor and court under par. (a)  
9 within 7 business days after making that determination.

10 **SECTION 2p.** 812.40 of the statutes is amended to read:

11 **812.40 Stipulated extension.** At any time while an earnings garnishment  
12 is in effect, the debtor and creditor, if the debtor is an adult or emancipated minor,  
13 may stipulate in writing to an extension of the earnings garnishment for additional  
14 pay periods. The extension may commence on the first day after the earnings  
15 garnishment ends and shall end within 13 weeks after the last day of the last pay  
16 period affected by the earnings garnishment. The garnishee shall be bound by the  
17 extension if a copy of the stipulation is delivered or mailed to the garnishee, together  
18 with an additional garnishee fee under s. 812.33, before the last day of the last pay  
19 period affected by the earnings garnishment or any prior stipulated extension of the  
20 earnings garnishment. A stipulated extension is void and the garnishee fee shall be  
21 refunded if, prior to the last day of the last pay period affected by the earnings  
22 garnishment, the garnishee is served under s. 812.35 (3) by a creditor seeking to  
23 satisfy a different judgment against the debtor.

24 **SECTION 2r.** 812.44 (3) (form) of the statutes is amended to read:

25 812.44 (3) (form)

1 STATE OF WISCONSIN  
2 CIRCUIT COURT:.... County

3 \_\_\_\_\_

4 A.B., Creditor

5 vs. File or Reference Number...

6 C.D., Debtor EARNINGS

7 and GARNISHMENT

8 E.F., Garnishee

9 \_\_\_\_\_

10 THE STATE OF WISCONSIN, To the garnishee:

11 The creditor has been awarded a court judgment that has not been paid. As a  
12 result, the creditor claims that a total of \$... is owed by the debtor, as follows:

13	A. Unpaid balance on judgment	\$....
14	B. Unpaid postjudgment interest	\$....
15	C. Costs of this earnings garnishment	
16	(estimated)	\$....
17	TOTAL	\$....

18 The creditor believes that you will owe the debtor for earnings within the next  
19 13 weeks, or if the debtor is an unemancipated minor, within any time. If the \$15  
20 fee is tendered with these papers, you are directed by the court to do the following:

21 DETERMINE WHETHER YOU WILL  
22 OWE THE DEBTOR EARNINGS

23 1. Determine if you are likely to owe the debtor for earnings in pay periods  
24 beginning within the next 13 weeks, or if the debtor is an unemancipated minor,  
25 within any time.

1           2. If you are not likely to owe the debtor for earnings in pay periods beginning  
2 within the next 13 weeks, or if the debtor is an unemancipated minor, within any  
3 time, send a statement stating that fact to the creditor by the end of the 7th business  
4 day after receiving the earnings garnishment forms.

5           **IF THE DEBTOR SENDS YOU AN ANSWER**

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

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

13           **MULTIPLE EARNINGS GARNISHMENTS**

14          5. If the debtor's earnings are already being garnisheed when you receive this  
15 earnings garnishment, place this earnings garnishment into effect the pay period  
16 after the last of any prior earnings garnishments terminates. Notify the debtor of  
17 the amount of the garnishment and notify the creditor of the amount owed on the  
18 pending garnishments by the end of the 7th business day after you receive these  
19 forms. If there are no prior pending earnings garnishments against the debtor's  
20 earnings, place this earnings garnishment into effect the pay period after you receive  
21 it.

22           **EARNINGS GARNISHMENTS LAST 13 WEEKS,**

23           **EXCEPT FOR PUBLIC EMPLOYEES**

24          6. The garnishment of the earnings of employees of the state of Wisconsin and  
25 its political subdivisions and of unemancipated minors remain in effect until the

1 judgment is satisfied. The garnishment of earnings of other employees will affect the  
2 debtor's earnings for all pay periods beginning within 13 weeks after you receive it,  
3 unless the debtor's earnings are already being garnisheed. If this earnings  
4 garnishment is delayed under paragraph 5, above, it will affect the debtor's earnings  
5 for all pay periods beginning within 13 weeks after the first day of the pay period that  
6 you put this earnings garnishment into effect. If the amount claimed by the creditor  
7 is fully paid before the end of the 13 weeks, this earnings garnishment will terminate  
8 at that point.

#### 9 PAYING THE CREDITOR

10 7. Between 5 and 10 business days after each payday of a pay period affected  
11 by this earnings garnishment, pay the creditor 20% of the debtor's disposable  
12 earnings for that pay period. Payment is complete upon mailing.

#### 13 EFFECT OF COURT-ORDERED

#### 14 ASSIGNMENTS FOR SUPPORT

15 8. If the debtor has assigned his or her earnings for support by court order, those  
16 support payments take priority over this earnings garnishment. If 25% or more of  
17 the debtor's disposable earnings is assigned for support by court order, do not pay any  
18 part of the debtor's earnings to the creditor. Instead, send the creditor a statement  
19 of that fact by the end of the 7th business day after you receive these forms. If less  
20 than 25% of the debtor's earnings is assigned for support by court order, the amount  
21 the creditor must be paid is reduced so that the total of earnings assigned and  
22 garnisheed does not exceed 25% of the debtor's disposable earnings.

#### 23 EXTENSIONS

24 9. The debtor and creditor may agree in writing to extend this earnings  
25 garnishment for additional pay periods beginning within 13 weeks after this

1 earnings garnishment would otherwise terminate if the debtor is an adult or an  
2 emancipated minor. If you receive a written extension stipulation, and an additional  
3 garnishee fee for each extension, you must honor it unless a different garnishment  
4 against this debtor's earnings is served upon you before the extension takes effect.  
5 In that case, the extension is void and you must return the extension fee to the party  
6 who paid it to you.”.

7 **2.** Page 5, line 7: delete “This” and substitute “This If you are an adult or an  
8 emancipated minor, this”.

9 **3.** Page 5, line 10: after “paid.” insert “If you are an unemancipated minor, this  
10 earnings garnishment affects your earnings after it was served on the garnishee and  
11 until the amount that the creditor is seeking in the garnishment is paid in full.”.

12

(END)