

**2003 DRAFTING REQUEST**

**Assembly Amendment (AA-AB346)**

Received: 10/23/2003

Received By: rnelson2

Wanted: Today

Identical to LRB:

For: Peggy Krusick (608) 266-1733

By/Representing:

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Courts - garn/injunct

Extra Copies:

Submit via email: YES

Requester's email: Rep.Krusick@legis.state.wi.us

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Continuous garnishment for minors

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**Instructions:**

Have garnishments under this bill be continuous

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rnelson2 10/23/2003	kgilfoy 10/23/2003	chaugen 10/23/2003	_____	Inorthro 10/23/2003	Inorthro 10/23/2003	

FE Sent For:

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/1	rnelson2		CH 10-23	CH 10-23 JK			

FE Sent For:

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*nee*  
State of Wisconsin  
2003 - 2004 LEGISLATURE

LRBa1513/1

RPN: *King*

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

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.

History: 1993 a. 80.

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.

History: 1993 a. 80.

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  
18 to 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

1 garnishments against the debtor have already been served on the garnishee and not  
2 terminated, the garnishee shall retain the earnings garnishment form and place the  
3 garnishment into effect the pay period after the last of any prior earnings  
4 garnishments terminates. The garnishee shall notify the debtor of the amount of the  
5 garnishment and shall notify the creditor of the amount owed on the pending  
6 garnishments by the end of the 7th business day after receipt of the garnishment  
7 form under sub. (3). If before the earnings garnishment takes effect the garnishee  
8 determines that it is unlikely that the garnishee will continue to be obligated to the  
9 debtor for earnings, the garnishee shall notify the creditor and court under par. (a)  
10 within 7 business days after making that determination.

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

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

(form)

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

~~812.44 (3) The earnings garnishment form issued by the clerk under s. 812.35~~

(2) shall be in substantially the following form:

STATE OF WISCONSIN

CIRCUIT COURT:.... County

~~\_\_\_\_\_~~  
A.B., Creditor

vs.

File or Reference Number...

C.D., Debtor

EARNINGS

and

GARNISHMENT

E.F., Garnishee

~~\_\_\_\_\_~~  
THE STATE OF WISCONSIN, To the garnishee:

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

- A. Unpaid balance on judgment ✓ \$....
- B. Unpaid postjudgment interest ✓ \$....
- C. Costs of this earnings garnishment  
(estimated) ✓ \$....
- TOTAL ✓ \$....

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

DETERMINE WHETHER YOU WILL  
OWE THE DEBTOR EARNINGS

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

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

8           IF THE DEBTOR SENDS YOU AN ANSWER

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

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

15           MULTIPLE EARNINGS GARNISHMENTS

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

24           EARNINGS GARNISHMENTS LAST 13 WEEKS,  
25 EXCEPT FOR PUBLIC EMPLOYEES

*and of*

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

#### 11           PAYING THE CREDITOR

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

#### 15           EFFECT OF COURT-ORDERED

#### 16           ASSIGNMENTS FOR SUPPORT

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

#### 25           EXTENSIONS

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

History: 1993 a. 80, 490; 1995 a. 27, 224; 1997 a. 35, 250, 291; 1999 a. 32; 2001 a. 38.

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

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

(END)

X

This

✓