

No. 332, S.]

[Published August 2, 1955.

CHAPTER 490

AN ACT to amend 267.02, 267.09 (1) and 304.23; and to create 272.18 (15) (e) of the statutes, relating to contents of garnishee answer, the exemption of wages from execution, and requirements on garnishees in garnishment of wages proceedings.

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

SECTION 1. 267.02 of the statutes is amended to read:

267.02 A garnishee action shall be commenced by the service of a summons and verified complaint, which summons shall be substantially in the following form:

-----Court, -----County.

A. B., plaintiff, }
vs
C. D., defendant, }
E. F., garnishee. }

The State of Wisconsin, To said garnishee:

You are hereby summoned, as garnishee of the defendant, C. D., and required, within twenty days after the service of this summons and the annexed complaint upon you, exclusive of the day of service, to answer, whether you are indebted to or have in your possession or under your control any property belonging to such defendant, and to serve a copy of your answer on the undersigned at -----, in the county of ----
-----; and in case of your failure so to do judgment will be rendered against you for the amount of the plaintiff's judgment against said defendant, and costs. Of which the said defendant will also take notice.

If wages or salary are the subject matter of this garnishment action, you are required as provided in s. 272.18 (15) (e) to pay over to the principal defendant, on the date when the wages or salary subject to the garnishment action is normally payable, a subsistence allowance, out of the wages or salary then owing, in the sum of \$15 in the case of an individual

without dependents or \$25 in the case of an individual with dependents, but in no event in excess of 50 per cent of the wages or salary owing.

Plaintiff's attorney (or plaintiff)

P. O. address, -----, ----- county, Wis.

SECTION 2. 267.09 (1) of the statutes is amended to read:

267.09 (1) Whether he was, at the time of the service of the garnishee summons indebted or under any liability to the defendant, naming him, in any manner or upon any account, specifying, if indebted or liable, the amount, the interest thereon, the manner in which evidenced, when payable, whether an absolute or contingent liability and the facts necessary to a complete understanding of such indebtedness or liability. *If the garnishee is indebted or under any liability to the defendant for wages, the garnishee answer shall contain the information required by s. 272.18 (15) (e).* When the garnishee shall be in doubt respecting any such liability or indebtedness he may set forth the facts concerning the same.

SECTION 3. 272.18 (15) (e) of the statutes is created to read:

272.18 (15) (e) 1. When wages or salary owing to the principal defendant are subjected to a garnishment action, the garnishee shall pay over to the principal defendant on the date when such wages or salary would normally be payable a subsistence allowance, out of the wages or salary then owing, in the sum of \$15 in the case of an individual without dependents or \$25 in the case of an individual with dependents; but in no event in excess of 50 per cent of the wages or salary owing. Said subsistence allowance shall be applied to the first wages or salary earned in the period subject to said garnishment action.

2. If the court determines that the principal defendant is entitled to an exemption in excess of the subsistence allowance paid over or to be paid over pursuant to this subsection, such subsistence allowance shall be set off and applied against said exemption. If the court determines that the principal defendant is entitled to an exemption less than the subsistence allowance paid over or to be paid over pursuant to this subsection, such subsistence allowance shall be the exemption to which the principal defendant is entitled in such garnishment action.

3. The garnishee shall serve an answer upon the plaintiff stating the amount owing by him to the principal defendant at the time of the service of the garnishee summons, the amount of the subsistence allowance paid over or to be paid over to the principal defendant and the balance held by the garnishee. For the purpose of determining the amount of the subsistence allowance due the principal defendant, the garnishee shall be entitled to rely on the records in its possession at the time of the garnishment, and no garnishee shall be liable to any plaintiff if its determination of the amount of the subsistence allowance due the principal defendant is made in good faith and is based on such records.

SECTION 4. 304.23 of the statutes is amended to read:

304.23 The garnishee summons may be substantially in the following form:

State of Wisconsin } In Justice Court
----- County. } Before -----, Justice of the Peace

The State of Wisconsin to -----, garnishee:

Whereas, a summons (or warrant of attachment) has been issued by ----- (or a summons has been signed and issued by -----, an attorney at law of -----, returnable before -----

-----) a justice of the peace of said county, returnable on the ---- day of -----, 19--, in favor of -----, plaintiff, and against -----, defendant; and whereas the plaintiff (or ----- in his behalf) has made oath that you have property in your possession or under your control belonging to the defendant (or are indebted to him) :

You are hereby ordered to retain such property pending its disposition according to law, and you are also hereby summoned to appear before said justice at his office at -----, on the return day of said summons (or warrant of attachment) at ---- o'clock in the ----- noon of said day, then and there to answer under oath touching your liability as garnishee.

If wages or salary are the subject matter of this garnishment action, you are required as provided in s. 272.18 (15) (e) to pay over to the principal defendant, on the date when the wages or salary subject to the garnishment action is normally payable, a subsistence allowance, out of the wages or salary then owing, in the sum of \$15 in the case of an individual without dependents or \$25 in the case of an individual with dependents, but in no event in excess of 50 per cent of the wages or salary owing.

Dated -----, 19... -----, Constable or Sheriff.

Approved July 22, 1955.
