



RON TUSLER

STATE REPRESENTATIVE • 3rd ASSEMBLY DISTRICT

Testimony on Assembly Bill 337
Assembly Committee on State Affairs
January 10, 2024

Chair Swearingen and committee members,

Thank you for taking the time to hear Assembly Bill 337 relating to, eliminating the 13-week limit on the garnishment of earnings of certain debtors. Currently, under state law, a creditor is required to file a garnishment action every 13 weeks. This requirement often bogs down our already swamped court system and causes unnecessary fees for both the creditor and the debtor.

Assembly Bill 337 would eliminate the requirement for the creditor to file a new garnishment every 13 weeks. By eliminating the need to file new garnishment actions every 13 weeks, this bill significantly reduces the administrative burden on creditors & debtors. More importantly, it promises to relieve our swamped court system, allowing it to redirect resources to more pressing legal matters. This is not just an administrative improvement; it's a move towards a more efficient and effective justice system.

A particularly commendable aspect of this bill is the requirement for creditors to still serve garnishment forms every 13 weeks. Additionally, under Assembly Amendment 1, the creditor would be responsible for sending proper exemption forms to the debtor at their most updated address every 180 days. This provision directly addresses the concerns raised by Legal Action of Wisconsin, providing much-needed protection for low-income individuals and those who have relocated since the initial garnishment filing. It's a step towards ensuring that garnishments are not only fair but also transparent and well-communicated.

In conclusion, this bill represents a thoughtful, fair, and necessary evolution of our state's garnishment laws. It protects the most vulnerable among us while ensuring that creditors can collect what is due to them in a more efficient manner. It alleviates undue stress on our judicial system, allowing it to function more smoothly for the benefit of all. I urge you to consider the far-reaching positive impacts of this legislation and lend it your full support.



ROB HUTTON

STATE SENATOR | 5th DISTRICT

Wisconsin State Capitol | P.O. Box 7882 · Madison, WI 53707-7882 | (608) 266-2512 | Sen.Hutton@legis.wisconsin.gov

January 10, 2024

TO: Assembly Committee on State Affairs

FR: Senator Rob Hutton

RE: Assembly Bill 337 — eliminating the 13-week limit on the garnishment of earnings of certain debtors

Thank you for holding a hearing on Assembly Bill 337. This bill follows up on previous legislation by eliminating a statutory 13-week limit on wage garnishments for civil restitution cases, a policy that negatively impacts both creditors and debtors.

Under current law, a creditor must file a new garnishment action every 13 weeks until the debt is satisfied. This policy is not in the best interest of debtors, creditors, courts or employers as it creates excessive paperwork while forcing the parties to revisit the issue on a regular basis.

2015 Act 355 eliminated the 13-week limitation on criminal restitution cases, but did not affect civil restitution cases. In the 2017-18 session, a bill similar to AB 337 passed out of both the Assembly and Senate committees but failed to be scheduled on the floor in both chambers.

In addition to bringing civil restitution into parity with criminal restitution, AB 337 also incorporates an amendment adopted in a prior session by the Senate and Assembly committees that allows multiple garnishments be in effect at the same time and prioritizes garnishments as follows:

1. Child support or maintenance
2. Payments for victim restitution
3. An equal division among other creditors

Additionally, this bill requires a creditor to serve the garnishment form every 13 weeks to ensure the debtor has adequate, ongoing notification about a continuing garnishment. This provision addresses an issue raised by Legal Action of Wisconsin a few sessions ago that they felt would negatively impact low-income individuals with garnishments and individuals who had moved subsequent to the initial filing of the garnishment action.

Finally, not filing garnishment actions every 13 weeks will relieve some stress on an already swamped court system.

Again, thank you for your time and consideration of this bill. It is an opportunity to help creditors, debtors, employers and our court system while retaining notice protections for low-income individuals. I respectfully ask for your support.

LEGAL ACTION OF WISCONSIN

Providing free legal services to low-income Wisconsin clients since 1968 • Proporcionando servicios legales gratuitos a clientes de bajos ingresos en Wisconsin desde 1968

TO: Assembly Committee on State Affairs
FROM: Abby Bar-Lev Wiley, Legislative Director, Legal Action of Wisconsin
Date: 01/10/2024
RE: Impact of AB 337 on Low-Income Wisconsinites

Thank you for the opportunity to testify on AB 337. Legal Action of Wisconsin is the state's largest non-profit law firm providing free, high-quality legal services to individuals and families with low incomes. We provide services on a range of legal issues, including helping low-income individuals resolve consumer debts. We sincerely appreciate Rep. Tusler's office reaching out to Legal Action about this bill. It is true that the court costs of an action for wage garnishment can be onerous for low-income individuals and families. While we appreciate the intention to balance the interests of consumers and creditors, we have expressed concern that the current version of the bill actually leaves low-income consumers worse off than the status quo, and we hope to continue the conversation.

Under current law, an individual with unpaid debt may have a portion of their wages garnished until their debts are paid. If an individual's debt has not been paid back after 13 weeks of having their wages garnished, the creditor can file an action in court that allows them to continue garnishing an individual's wages for 13 more weeks. Every 13 weeks, this court process must occur to be able to continue garnishment, and therefore, every 13 weeks, an individual receives notice that their wages are subject to garnishment. Included with that notice is information about the statutory exceptions to garnishment: for example, if someone is receiving or is eligible to receive aid to families with dependent children, medical assistance, supplemental security income, food stamps, or veterans benefits based on need, they are exempt from wage garnishment. A low-income family's status can change very quickly—for example, they're given a lot of hours for a couple months, then an employer cuts their hours to save on costs. Garnishment notices occurring every 13 weeks means that if an individual's situation has changed in those three months to qualify for an exemption to garnishment, they have the information that they need to have their wages be deemed exempt. Because the process occurs through the courts, there is a public record and accountability.

In discussing the bill with Rep. Tusler's office, we expressed that if garnishment were to continue outside of the court, there must be adequate and timely notice to individuals that their wages are subject to garnishment, a structure for ensuring a debtor's address is current, and an accountability mechanism if notices are not sent but wages continue to be garnished. We do appreciate that the bill requires employers to notify creditors of updates to an individual's home address.

The amendment to AB 337 changes the notice period to 180 days—six months—extending the amount of time creditors have to garnish someone's wages by four months before a new notice is required. This means that instead of the four notices a year that individuals currently receive, they would only receive two. This is a significant change for someone surviving on a low income. There is no enforcement mechanism to ensure that the notices are sent in a timely manner to a place where the individual is likely going to receive it. There is currently no requirement that the creditor provide documentation that it has complied with the statute. Further, it is unclear what, if any, recourse an individual would have if their wages were to continue to be garnished after the 6-month period without having received a notice.

We appreciate the time and effort that has gone into this bill, and the attempts to reach out and seek balance. Unfortunately, in its current form, AB 337 fails to achieve a benefit for low-income individuals.

Thank you for your consideration.

WISCONSIN
Clerks OF
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Your Access to the Courts

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January 10, 2024

Vice President

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Committee on Assembly of State Affairs

RE: AB337-eliminating the 13-week limit on the garnishment of earnings of certain debtors

Secretary

BRENDA BEHRLE
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Dear Honorable Committee Members,

Thank you for this opportunity to submit comments on AB337 (and SB327) regarding an elimination of the 13-week limit on the garnishment of earnings of certain debtors. As an organization, the Wisconsin Clerks of Circuit Court Association (WCCCA) is not taking an official position and remains neutral on this bill but wants to make the committee aware that there will be a negative fiscal impact to the counties.

Treasurer

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Executive Committee

Rebecca Matoska-Mentink, Chair, District 2
Anna Hodges, District 1
Monica Paz, District 3
Amy Thoma, District 4
Carrie Wastlick, District 5
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The magnitude of the impact varies from county by county with larger counties expected to take the largest financial hit. As an organization, the WCCCA would ask that the committee consider a way to make this bill revenue neutral and would support amendments attempting to make counties whole. There is not enough time for a stand alone bill to pass to address these issues so an amendment would be best.

Thank you again for your time and consideration.

Legislative Committee

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Amy Vanderhoef, District 2
Cindy Hamre Incha, District 3
Shari Rudolph, District 4
Carlo Esqueda, District 5
Tina McDonald, District 7
Penny Carter, District 9
Susan Schaffer, District 10

Sincerely,

John A. Vander Leest

Wisconsin Clerk of Circuit Court Assn
Legislative Chair

Stacy Kleist

Wisconsin Clerk of Circuit Court Assn
President



COUNTY OF KENOSHA

CIRCUIT COURT

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January 9, 2024

Sen. Robert Wirsch

RE: Public Hearing SB-327 / AB337

Honorable Senator:

Due to weather constraints, I am not able to attend the Public Hearing on Wednesday, January 10, 2023 regarding elimination of the 13-week limit on garnishment of earnings of certain debtors. I thank you for the time in considering this information.

It is my understanding that there is bi-partisan support for this bill as it aids debtors by limiting additional costs that accrue because the judgment has not yet been paid during the garnishment's 13 week time period. I support this concept.

However, the Kenosha Circuit Court budget includes revenues that are generated due to the current law at \$7.50/case. My very rough estimate provides that over \$18,000 is directly associated with this type of filing. Outagamie County estimated \$15,000 of revenue associated.

I respectfully request that you consider a way in which to either allow counties to budget appropriately in future years to accommodate these changes, or an alternative method that would be budget neutral, such as increase in the initial filing fee apportioned to the county.

Thank you for the time and consideration.

Sincerely,

Rebecca Matoska-Mentink

BANKRUPTCY, INSOLVENCY & CREDITORS' RIGHTS SECTION

PUBLIC INTEREST LAW SECTION

Date: January 10, 2024

To: Assembly Committee on State Affairs

Re: Senate Bill 327/Assembly Bill 337 – eliminating the 13-week limit on the garnishment of earnings of certain debtors

The Public Interest Law Section (PILS) and the Bankruptcy, Insolvency and Creditors' Rights (BICR) Section of the State Bar of Wisconsin is submitting written testimony on Senate Bill 327/Assembly Bill 337 regarding the proposal to eliminate the 13-week limit on the garnishment of earnings of certain debtors. While the sections recognize the merits of equalizing the creditors' garnishment rights by giving all garnishing creditors simultaneous access to a cut of the judgment debtor's non-exempt income, the legislation creates unintended consequences that could cause more harm if approved by the legislature. At this time, both the PILS and BICR sections have voted to monitor the legislative efforts and are hopeful that improvements can be made before the legislation is passed.

The sections have separate concerns in two areas of consideration: impact on the employer and impact on the creditor and the consumer. The sections acknowledge and appreciate the author's ongoing commitment to find a more effective means of implementing garnishments and recognize it is a very difficult task to balance all competitive interests and principles.

Impact on the Employer

The proposed legislation will be overly burdensome to the garnishee employer and will create an administrative nightmare for small employers. As it currently stands, many smaller employers who receive garnishment actions struggle to understand the manner and implementation of the existing garnishment structure for a single garnishing creditor. For example, if a creditor with an existing garnishment ("Creditor 1") in place is getting \$50 every 2 weeks, and another creditor files a garnishment action ("Creditor 2"), then Creditor 1 and Creditor 2 will now each get \$25 per pay period. If a third creditor files a garnishment ("Creditor 3"), then each Creditor now gets \$16.67 per pay period.

To now require them to keep track of, and split equally available income among multiple creditors, will cause too many complications to properly implement. This, in turn, will trigger more issues and litigation as to allocation of the money, both in timing and amount. The situation will also create conflict, in small business situations, between the employee being garnished and their employer. While the law protects the employee from employment repercussions from being garnished, that does not mean the atmosphere will not sour when the employer is facing multiple complications from an overly complicated garnishment process.

Impact on the Creditor and the Consumer

The BICR section represents both debtor and creditor attorneys and the section include many experienced creditors' right attorneys. The PILS section often represents low-income individuals whose wages are being garnished. In both sections' respective experiences, most earnings garnishments do not result in any sort of windfall, but rather constitute a long-term way to chip away at judgment debt. Often, the earnings garnishment process is used as the sole means of collecting on a judgment where a judgment debtor's assets are otherwise completely exempt. In short, this is normally not the manner



STATE BAR OF WISCONSIN

chosen to collect against a person of wealthy means. The average income garnished traditionally relates to low (just above the exempt poverty threshold) to median income judgment debtors. The 20% of their income available to garnish, in short, is traditionally not a significant amount. By requiring creditors to split amongst themselves an already nominal amount, it will take even longer for these creditors to get paid.

It will likely take longer to collect a debt than if the creditor had just waited in line for its turn under the existing 13-week garnishment structure. The bill also proposes that creditors still issue notices of the ongoing garnishment every 13 weeks. That means the creditor will still spend money to issue a notice every 13 weeks but only get a fraction of the amount available. Language in the legislation is also confusing on notice requirements and costs required every 13 weeks. It states that the creditor shall "serve the earnings garnishment form issued by the clerk of courts under s. 812.35(2) upon the debtor..." This section requires the clerk to issue the notices and still requires the creditor to pay a fee. This put the creditor at the mercy of the clerk to issue the notice in a timely manner, adding to an already heavy workload.

The current earnings garnishment process provides Wisconsin consumers with far more opportunities to dispute the garnishment and exercise statutory exemptions. The current process provides consumers with relief between garnishments, allowing them break periods to keep more of their paychecks necessary to pay their bills and expenses to not get behind and into another debt process.

Both sections realize that reforming the earning garnishment process is a difficult task. We understand the competing principles of equity/fairness in the treatment of claimants of generally similar status, and that there is often a desire to avoid the proverbial "race to the courthouse". However, it is important to acknowledge the basis for the existing law. Prevailing case law in Wisconsin rewards the diligent creditor who attempts to collect on their debt expeditiously. The current process is in line with that long-standing precedent of "First in time, first in right."

The PILS and BICR Sections welcome the opportunity to discuss the garnishment legislation in more detail. If you have any questions, please contact Cale Battles, Government Relations Coordinator at the State Bar of Wisconsin, at cbattles@wisbar.org or (608) 695-5686.

The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.

The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.