



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4119 (Substitute S-1 as reported by the Committee of the Whole)
House Bill 4120 (as reported without amendment)
Sponsor: Representative Daniela Garcia (H.B. 4119)
Representative Michael D. McCready (H.B. 4120)
House Committee: Commerce and Trade
Senate Committee: Commerce

CONTENT

The bills would amend provisions of the law dealing with garnishment (a legal process in which a plaintiff can collect a defendant's debt from a third party, the garnishee, who is in control of property belonging to the defendant or money, such as wages or rental payments, due to the defendant).

House Bill 4119 (S-1) would amend Section 4012 of the Revised Judicature Act, which governs garnishments of periodic payments, to do the following:

- Provide that a garnishment would remain in effect until the balance of the judgment was satisfied.
- Require a plaintiff to pay a \$35 fee, rather than the current \$6 fee, to the garnishee at the time a garnishment was served on the garnishee.
- Require a plaintiff to give the garnishee and defendant a statement of the remaining balance of the judgment at least once every six months while a garnishment was in effect.
- Require a plaintiff to give the garnishee and defendant a release of garnishment within 21 days after the balance of the judgment had been paid.
- Prohibit a plaintiff from requesting a default to be entered against a garnishee unless the garnishee failed to file a disclosure within 14 days after service of a garnishment or otherwise perform a required act, and did not cure the failure within 28 days, as provided in the bill.
- Allow the garnishee to cure an identified failure after entry of default but before a default judgment was entered.
- Allow a plaintiff to file with the court a request for default judgment after a default had been entered.
- Require the court, on the garnishee's motion, to reduce and/or set aside a default judgment under certain circumstances.
- Provide that a garnishment or a notice of failure would not be valid or enforceable unless it were served on the garnishee in accordance with the Michigan Court Rules.
- Specify that garnishments would have priority in the order in which they were received, except that an order of income withholding under the Support and Parenting Time Enforcement Act and a levy to satisfy a tax liability would have priority over a garnishment.
- Provide that Section 4012 would not apply to an order of income withholding under the Support and Parenting Time Enforcement Act, a levy for tax liability, or a levy of restitution for overpayment of benefits under the Michigan Employment Security Act.

House Bill 4120 would amend Public Act 390 of 1978, which regulates the payment of wages and fringe benefits, to allow an employer to deduct amounts from the wages of an employee without the employee's written consent if the employer paid any part of an employee's debt

under a default judgment entered under Section 4012 of the Revised Judicature Act, and all of the following conditions were met:

- The employer gave the employee a written explanation of the deduction at least one pay period before the wage payment affected by the deduction was made. The deduction was not greater than 15% of the gross wages earned in the pay period in which the deduction was made.
- The deduction was made after the employer had made all deductions expressly permitted or required by law or a collective bargaining agreement, and after any employee-authorized deduction.
- The deduction did not reduce the regularly scheduled gross wages otherwise due the employee to a rate that was less than the minimum rate prescribed by the Workforce Opportunity Wage Act or the minimum rate prescribed by the Fair Labor Standards Act, whichever was greater.

The bills are tie-barred. House Bill 4119 (S-1) would apply to writs of garnishment issued after September 30, 2015. House Bill 4120 would take effect 90 days after its enactment.

MCL 600.4012 (H.B. 4119)
408.477 (H.B. 4120)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

House Bill 4119 (S-1) would have no fiscal impact on State or local government except to the extent the State or a local unit of government was a plaintiff in a garnishment proceeding or a garnishee. If the State or local unit were a plaintiff, it would have to pay the increased fee to the garnishee, and would have to comply with the bill's requirements to give periodic statements and a release of garnishment to a garnishee and defendant. If the State or a local unit were a garnishee, it would receive increased fee revenue. Also, as a plaintiff or garnishee, the State or a local unit could be affected by the provisions concerning entry of a default and default judgments.

House Bill 4120 could have a very minor, but likely negative, fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) and would have no fiscal impact on local units of government. Statute allows an employee to file a complaint with the Wage and Hour Division within LARA if an employer improperly deducts an amount from the employee's wages. The bill would create additional conditions that employers would have to follow before garnishing wages, which could result in additional complaints being filed with the Wage and Hour Division.

Date Completed: 3-25-15

Fiscal Analyst: Josh Sefton

Floor\hb4119

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.