

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4011 Garnishment; property or obligation applicable to satisfaction of claim; jurisdiction; state and governmental units as garnishees; ex parte application for writ of garnishment; service; conditions to commencement of garnishment proceeding; immunity of sheriff or other public officer; fee; conveyance of money or property.

Sec. 4011. (1) Subject to sections 4061 and 4061a, and the conditions in subsections (2) to (10), the court has power by garnishment to apply the following property or obligation, or both, to the satisfaction of a claim evidenced by contract, judgment of this state, or foreign judgment, whether or not the state has jurisdiction over the person against whom the claim is asserted:

(a) Personal property belonging to the person against whom the claim is asserted but which is in the possession or control of a third person if the third person is subject to the judicial jurisdiction of the state and the personal property to be applied is within the boundaries of this state.

(b) An obligation owed to the person against whom the claim is asserted if the obligor is subject to the judicial jurisdiction of the state.

(2) Except as provided in sections 4061 and 4061a, the court may exercise the jurisdiction granted in this section only in accordance with the Michigan court rules. Except as otherwise provided by sections 4061 and 4061a and the Michigan court rules, the state and each governmental unit within the state, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, may be proceeded against as a garnishee in the same manner and with the same effect as a proceeding against an individual garnishee.

(3) A writ of garnishment may be issued before judgment only as provided in this subsection. Upon ex parte application showing that the person against whom the claim is asserted is not subject to the judicial jurisdiction of the state or, after diligent effort, cannot be served with process as required to subject the person to the judicial jurisdiction of the state, a copy of the writ of garnishment shall be served upon the person against whom the claim is made in the same manner as provided by the Michigan court rules for service of process in other civil actions in which personal jurisdiction over the defendant is not required. Upon entry of judgment in the principal action, the obligation or property garnished shall be applied to the satisfaction of the judgment.

(4) A garnishment proceeding shall not be commenced against the state or a governmental unit of the state, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, until after the plaintiff's claim has been reduced to judgment.

(5) A garnishment proceeding shall not be commenced against a person for money owing to a defendant on account of labor performed by the defendant until after the plaintiff's claim has been reduced to judgment.

(6) A sheriff or other public officer is not subject to garnishment for money or things received or collected by him or her pursuant to an execution or other legal process in the favor of the defendant or because of any money in his or her hands for which he or she is accountable merely as a public officer to the defendant.

(7) A garnishment proceeding shall not be commenced if the commencement of such a proceeding is forbidden by a statute of this state.

(8) Except as otherwise provided in sections 4012 and 4061, a plaintiff shall pay a fee of \$1.00 to the garnishee at the time the garnishee is served with a writ of garnishment.

(9) If the court or garnishee possesses money or property pursuant to a writ of garnishment after the court releases the garnishee from liability under that writ, the court shall convey or order the conveyance of the money or property to any of the following, as the court determines appropriate:

(a) The defendant's attorney, if the defendant is represented by counsel in the garnishment proceeding.

(b) The defendant, if the defendant is not represented by counsel in the garnishment proceeding.

(c) The plaintiff.

(10) A writ of garnishment is not effective if both of the following conditions are met:

(a) The plaintiff fails to provide the garnishee with information sufficient for the garnishee to identify the defendant.

(b) The garnishee provides the court with written notice of the insufficiency described in subdivision (a).

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 371, Eff. Apr. 1, 1975;—Am. 1994, Act 346, Eff. Mar. 1, 1995.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."