

HOUSE BILL No. 4109

January 28, 1999, Introduced by Reps. Bishop, Mortimer, Pappageorge, Sanborn, Bovin, Richner, Kowall and Kukuk and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 4011 (MCL 600.4011), as amended by 1994 PA
346.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

8 (a) Personal property belonging to the person against whom
9 the claim is asserted but ~~which~~ THAT is in the possession or
10 control of a third person if the third person is subject to the

1 judicial jurisdiction of the state and the personal property to
2 be applied is within the boundaries of this state.

3 (b) An obligation owed to the person against whom the claim
4 is asserted if the obligor is subject to the judicial jurisdic-
5 tion of the state.

6 (2) Except as provided in sections 4061 and 4061a, the court
7 ~~may~~ SHALL exercise the jurisdiction granted in this section
8 only in accordance with the Michigan court rules. Except as oth-
9 erwise provided by sections 4061 and 4061a and the Michigan court
10 rules, the state and each governmental unit within the state,
11 including but not limited to a public, municipal,
12 quasi-municipal, or governmental corporation, unincorporated
13 board, public body, or political subdivision, may be proceeded
14 against as a garnishee in the same manner and with the same
15 effect as a proceeding against an individual garnishee.

16 (3) A writ of garnishment may be issued before judgment only
17 as provided in this subsection. Upon ex parte application show-
18 ing that the person against whom the claim is asserted is not
19 subject to the judicial jurisdiction of the state or, after dili-
20 gent effort, cannot be served with process as required to subject
21 the person to the judicial jurisdiction of the state, a copy of
22 the writ of garnishment shall be served upon the person against
23 whom the claim is made in the same manner as provided by the
24 Michigan court rules for service of process in other civil
25 actions in which personal jurisdiction over the defendant is not
26 required. Upon entry of judgment in the principal action, the

1 obligation or property garnished shall be applied to the
2 satisfaction of the judgment.

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

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

13 (6) A sheriff or other public officer is not subject to gar-
14 nishment for money or things received or collected by him or her
15 pursuant to an execution or other legal process in the favor of
16 the defendant or because of any money in his or her hands for
17 which he or she is accountable merely as a public officer to the
18 defendant. HOWEVER, A SHERIFF IS SUBJECT TO GARNISHMENT FOR
19 MONEY HELD IN AN INMATE'S INSTITUTIONAL ACCOUNT IF THE GARNISH-
20 MENT IS FOR THE PURPOSE OF SATISFYING AN ORDER OF A COURT OF THIS
21 STATE TO PAY COURT COSTS OR FEES.

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

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

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

6 (a) The defendant's attorney, if the defendant is repre-
7 sented by counsel in the garnishment proceeding.

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

10 (c) The plaintiff.

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

13 (a) The plaintiff fails to provide the garnishee with infor-
14 mation sufficient for the garnishee to identify the defendant.

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

17 Enacting section 1. This amendatory act does not take
18 effect unless Senate Bill No. _____ or House Bill
19 No. _____ (request no. 00374'99 a) of the 90th Legislature
20 is enacted into law.