

# WRIT OF GARNISHMENT PROCEEDINGS FOR VICTIMS OF CRIMES

**This information is being provided as a service to the victims we serve. For further assistance with the preparation, filing or service of these forms, you may want to seek the advice of an attorney. The information contained in this packet is subject to be updated and should not be relied upon as legal advice from this office.**

## **Filing a Request for Garnishment**

You must wait 21 days after your judgment was signed before you can get a garnishment. There are two types of garnishment: 1) periodic, and 2) nonperiodic.

A periodic writ of garnishment is used to garnish the defendant's wages, rent payments, land contract payments, or other debt that is paid to the defendant on a periodic basis. A periodic garnishment is valid for up to 91 days or until the judgment, interest, and costs are paid off, whichever occurs first.

A nonperiodic writ of garnishment is used to garnish the defendant's bank account (except for wages that are deposited in the account) or other property. Once money has been garnished under the nonperiodic writ, the writ is no longer valid. If there is a remaining balance on the judgment, you must get another writ to collect more money.

An income tax refund garnishment is used to garnish the defendant's Michigan income tax refund. Once money has been garnished under the income tax refund writ, the writ is no longer valid. If there is a remaining balance on the judgment, you must get another writ to collect more money. There is no authority to garnish federal or city income tax refunds.

Fill in the form using the instructions. The garnishee is the person or business who has control or possession of the defendant's money. Once you complete the request, you must file it with the court that entered your judgment. The filing fee is \$15.00.

## **Serving the Order for Garnishment**

The court will issue the order (also called a writ) by signing the form. The Request and Writ must be served on the garnishee along with the Garnishee Disclosure, form MC 14. If the garnishment is for periodic payments, include a \$6.00 disclosure fee with the forms. If the garnishment is for nonperiodic payments, include a \$1.00 disclosure fee with the forms. The cost of serving the Writ varies.

## **Disclosure**

A garnishee is someone who has control over some or all of the money that is paid to a defendant in a garnishment proceeding. When a writ of garnishment is issued, the garnishee is named in the order and is being ordered to give the plaintiff all or part of the defendant's money that the garnishee controls.

If someone is named in a writ of garnishment as a garnishee, they must provide information to the court and the parties about any money of the defendant's that they control. This is called "disclosure." There are a number of ways to have control over the defendant's money. Some of the more common examples are: 1) as an employer, the garnishee has control over the defendant's paycheck; 2) as a bank or other financial institution, the garnishee has control of the defendant's accounts; 3) as a tenant, the garnishee has control of the defendant's income that comes from payment of rent; or 4) as the Department of Treasury, the garnishee has control of the defendant's income tax refund.

To make a disclosure, the garnishee must complete the Garnishee Disclosure, form MC 14, and mail it to the court and the parties within 14 days after receiving the writ of garnishment. If the garnishee fails to disclose within the time limit, the court can take action against the garnishee and the garnishee may be ordered to pay the full amount owed on the judgment as stated in the writ of garnishment.

If the garnishee is indebted to the defendant, the garnishee must begin withholding money after disclosure has been made. Withholding must be made according to court rule. See the garnishee instructions provided with the Garnishee Disclosure, form MC 14.

## Receiving Money

The garnishee has 14 days after the Writ is served to let you, the court, and the defendant know if any money is available for garnishment. This information will be provided on form MC 14, Garnishee Disclosure. If you are trying to garnish wages, you will only receive part of the wages based on a federal formula.

If money is available, it will be withheld from the defendant right away. However, this money will be held for 28 days to allow the defendant time for objections. If there are no objections, the withheld money will be automatically sent to you after 28 days. If the garnishment is for periodic payments, money will continue to be sent to you as payments become due until the writ expires.

For more information, the State of Michigan provides more detailed information on preparing, filing and serving a Writ of Garnishment. The website further provides PDF documents that can be filled in online if a computer is available to you.

[http://courts.michigan.gov/scao/selfhelp/collection/garnishment\\_help.htm](http://courts.michigan.gov/scao/selfhelp/collection/garnishment_help.htm)

Prepared by:

DARYL P. VIZINA

Cheboygan County Prosecutor