



HOUSE BILL No. 4702

May 4, 1993, Introduced by Rep. Profit and referred to the Committee on Judiciary.

A bill to amend section 4061 of Act No. 236 of the Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,"
being section 600.4061 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4061 of Act No. 236 of the Public Acts
2 of 1961, being section 600.4061 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 4061. (1) ~~Garnishment~~ A PLAINTIFF SHALL SERVE
5 GARNISHMENT process issued from a ~~circuit~~ court IN MICHIGAN
6 against the state of Michigan ~~shall be served~~ upon the state
7 treasurer or ~~any~~ other state employee designated by ~~him~~ THE
8 STATE TREASURER to receive ~~such~~ GARNISHMENT process. The state
9 treasurer shall designate as many ~~such~~ employees as he ~~deems~~

1 OR SHE CONSIDERS necessary TO RECEIVE GARNISHMENT PROCESS, at
2 least 2 of whom shall have ~~their~~ offices in Lansing.

3 (2) ~~The designation of such employees shall be~~ THE STATE
4 TREASURER SHALL DESIGNATE THE EMPLOYEES UNDER SUBSECTION (1) in
5 writing and ~~filed with~~ FILE THE DESIGNATION IN the ~~secretary~~
6 ~~of state, and revocation of the designation~~ STATE TREASURER'S
7 OFFICE. IF THE STATE TREASURER REVOKES THE DESIGNATION, THE
8 REVOCATION shall be made in ~~like~~ THE SAME manner. Ipso facto
9 revocation of the designation ~~shall occur when any such~~ OCCURS
10 IF A DESIGNATED employee ceases to be employed by the state
11 TREASURER TO RECEIVE PROCESS UNDER SUBSECTION (1).

12 (3) ~~The~~ A WRIT OF garnishment ~~writ~~ DESCRIBED IN THIS
13 SECTION shall be served upon the state treasurer or designated
14 employee. ~~, together with a sworn statement by the plaintiff,~~
15 ~~his attorney or agent, stating the full amount including interest~~
16 ~~and taxed costs, claimed by the plaintiff to be due upon the~~
17 ~~judgment against the principal defendant.~~ Within 5 days after
18 ~~such~~ service OF THE WRIT OF GARNISHMENT UNDER THIS SUBSECTION
19 is accomplished, a copy of the WRIT OF garnishment ~~writ~~ shall
20 be served upon the principal defendant in the manner provided in
21 the rules of the supreme court. ~~A copy of the proof of service~~
22 ~~upon the principal defendant shall be mailed to the state~~
23 ~~treasurer.~~

24 (4) ~~Within 15 days after receiving proof of service of the~~
25 ~~garnishment writ upon the principal defendant~~ AFTER RECEIVING
26 SERVICE OF A WRIT OF GARNISHMENT AS PROVIDED IN SUBSECTION (3),
27 the state treasurer OR DESIGNATED EMPLOYEE shall make and file

1 ~~in~~ ON behalf of the state a disclosure of the indebtedness of
2 the state to the principal defendant ~~as of the time of service~~
3 ~~of the garnishment writ upon the state treasurer or designated~~
4 ~~employee,~~ over and above any setoff, counterclaim, or other
5 demand of the state against the principal defendant. The STATE
6 TREASURER OR DESIGNATED EMPLOYEE IS NOT REQUIRED TO MAKE A dis-
7 closure ~~need not be~~ under oath.

8 (5) When the disclosure is filed or within ~~a reasonable~~
9 ~~time thereafter~~ 14 DAYS AFTER THE DISCLOSURE IS FILED, the state
10 treasurer shall deposit with the clerk of the court the amount of
11 indebtedness ~~so~~ disclosed less the statutory exemptions of the
12 principal defendant as computed by the state treasurer ~~, secur-~~
13 ~~ing a receipt for the deposit~~ OR BY THOSE ASSIGNED THE RESPONSI-
14 BILITY FOR THE CALCULATION. The deposit ~~and receipt shall~~
15 ~~release and discharge~~ RELEASES AND DISCHARGES the state of
16 Michigan and the state treasurer from all liability to the plain-
17 tiff, the principal defendant, and any third person having or
18 claiming any interest in the indebtedness. The ~~amount deposited~~
19 ~~shall not exceed~~ STATE TREASURER SHALL NOT DEPOSIT AN AMOUNT
20 THAT EXCEEDS the amount claimed by the plaintiff. ~~in his sworn~~
21 ~~statement.~~

22 ~~(6) Upon the filing of the disclosure and depositing of the~~
23 ~~indebtedness by the state treasurer, the clerk of court shall~~
24 ~~give notice thereof to the principal defendant by mailing or oth-~~
25 ~~erwise delivering a copy of the disclosure and receipt to the~~
26 ~~principal defendant.~~

1 (6) ~~(7) Upon the presentation of satisfactory proofs at the~~
2 ~~hearing of the garnishment action, the~~ THE court ~~may~~ SHALL
3 make and enter an order directing the clerk of court to pay to
4 plaintiff the amount deposited ~~—~~ not in excess of the amount
5 found to be actually due plaintiff on ~~his~~ THE judgment ~~—~~
6 including interest and taxed costs ~~—~~ as of the time of ~~service~~
7 ~~of the garnishment writ upon~~ DISCLOSURE BY the state treasurer
8 or designated employee. ~~Any~~ THE COURT SHALL ORDER ANY residue
9 of the deposit over the amount paid to plaintiff ~~shall~~ OR THE
10 PRINCIPAL DEFENDANT be ~~ordered~~ returned to the state
11 treasurer.

12 (7) ~~(8)~~ If the garnishment action is dismissed for any
13 reason, the order of dismissal shall direct the clerk of court to
14 return the full amount deposited to the state treasurer.