

SENATE BILL NO. 212—COMMITTEE ON JUDICIARY

FEBRUARY 18, 1999

Referred to Committee on Judiciary

SUMMARY—Authorizes person licensed as process server to serve writ of garnishment.
(BDR 3-818)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to writs of garnishment; authorizing a licensed process server to serve a writ of garnishment; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 31.270 is hereby amended to read as follows:
2 31.270 1. ~~{The}~~ A writ of garnishment ~~{shall}~~ **must** be served by the
3 sheriff of the county where the garnishee defendant is found, unless the
4 court directs otherwise, ***or by a process server who is licensed pursuant to***
5 ***chapter 648 of NRS,*** in the same manner as provided by rule of court or
6 law of this state for the service of a summons in a civil action.
7 2. At the time of the service of the writ of garnishment, the garnishee
8 ~~{shall}~~ **must** be paid or tendered by the plaintiff in the action or the ~~{officer}~~
9 **person** serving the writ a fee of \$5, and unless ~~{such}~~ **that** sum is paid or
10 tendered to the garnishee defendant or the person upon whom service is
11 made for the garnishee defendant, service shall be deemed incomplete.
12 **Sec. 2.** NRS 31.280 is hereby amended to read as follows:
13 31.280 The ~~{sheriff's}~~ return of the writ of garnishment showing due
14 service of the writ of garnishment upon one or more garnishee defendants
15 with the payment or tender of the garnishee's fees ~~{shall give}~~ **gives** the
16 court jurisdiction to proceed against each such garnishee.
17 **Sec. 3.** NRS 31.310 is hereby amended to read as follows:
18 31.310 1. Subject to order of the court, a garnishee defendant ~~{,}~~
19 upon whom a writ of garnishment has been duly served ~~{,}~~ shall not pay any
20 debt due or to become due to the defendant and ~~{must}~~ **shall** retain in his

1 possession and control, or deliver to the sheriff as provided ~~{herein,}~~ **in**
2 **subsection 2**, all personal property, effects, goods, chattels, rights, debts,
3 credits or choses in action of the defendant.

4 2. In all cases the garnishee, upon the filing of his answers to the
5 garnishee interrogatories, may deliver to the sheriff ~~{or the officer serving~~
6 ~~the writ}~~ the property belonging to the defendant, together with the money
7 due to the defendant, and the sheriff ~~{or officer}~~ shall give the garnishee
8 defendant a receipt therefor, and thereupon the garnishee is relieved from
9 further liability in the proceedings, unless his answer is successfully
10 controverted.

11 3. The sheriff ~~{or officer}~~ shall hold ~~{such}~~ **the** property and money to
12 be dealt with as provided in NRS 31.300 and shall, by certificate, make
13 return to the court showing the receipt thereof specifically describing ~~{such}~~
14 **the** money and property and setting forth the date and time of its receipt.
15 The certificate ~~{shall form}~~ **constitutes** a part of the return of the writ of
16 garnishment.

17 **Sec. 4.** NRS 31.320 is hereby amended to read as follows:

18 31.320 1. If the garnishee has been duly served with the writ of
19 garnishment and interrogatories, and been paid or tendered the fee of \$5,
20 and the fact of such payment or tender is duly certified by the ~~{officer}~~
21 **person** who served the writ over his official signature, or such fact is made
22 to appear by the person serving the writ under oath, but the garnishee fails,
23 neglects or refuses to answer the interrogatories within the time required,
24 the court shall, upon application therefor by the plaintiff with at least 5
25 days' notice of the hearing upon such application given to each defendant
26 who has appeared in the action, enter judgment in favor of the defendant
27 for the use of the plaintiff against the garnishee for **the** value of the
28 property or amount of money specified in the writ of garnishment.

29 2. On motion and upon such terms as are just, the court may relieve a
30 garnishee defendant or his legal representative from any final judgment
31 against ~~{such}~~ **the** garnishee defendant for the same reasons and upon the
32 same terms and conditions as provided for by rule of court for relief from a
33 judgment or order in civil cases.

34 **Sec. 5.** This act becomes effective upon passage and approval.