

ASSEMBLY BILL NO. 62—ASSEMBLYMAN ANDERSON

PREFILED FEBRUARY 1, 2001

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning garnishment. (BDR 3-777)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: 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 garnishment; requiring a garnishee to submit his answers to garnishee interrogatories to the sheriff; limiting the amount of a judgment by default that may be rendered against certain garnishees who fail to answer such interrogatories; and providing other matters properly relating thereto.

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

**Section 1.** NRS 31.260 is hereby amended to read as follows:

31.260 1. The writ of garnishment must:

(a) Be issued by the sheriff.

(b) Contain the name of the court and the names of the parties.

(c) Be directed to the garnishee defendant.

(d) State the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address.

(e) ~~Summon~~ *Require* each person the court directs, as garnishees, to ~~appear before the court in which the action is pending by filing~~ *submit to the sheriff* an answer to the interrogatories within 20 days after service of the writ upon ~~him~~ *the person*.

2. The writ of garnishment must also notify the garnishee defendant that, if he fails to answer the interrogatories, a judgment by default will be rendered against him for ~~the~~ :

(a) *The* amount demanded in the writ of garnishment ~~is~~ or the value of the property described in the writ , as the case may be ~~is~~ ; or

(b) *If the garnishment is pursuant to NRS 31.291, the amount of the lien created pursuant to that section,*

which amount or property must be clearly set forth in the writ of garnishment.



3. Execution on the writ of garnishment may occur only if the sheriff mails a copy of the writ with a copy of the notice of execution to the defendant in the manner and within the time prescribed in NRS 21.076. In the case of a writ of garnishment that continues for 120 days or until the amount demanded in the writ is satisfied, a copy of the writ and the notice of execution need only be mailed once to the defendant.

**Sec. 2.** NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to the garnishee may be in substance as follows:

**INTERROGATORIES**

Are you in any manner indebted to the defendants .....

or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer: .....

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount each defendant presently earns during a pay period.

Answer: .....

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in which .....is interested? If so, state its value, and state fully all particulars.

Answer: .....

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to ..... or in which .....is interested, and now in the possession or under the control of others? If so, state particulars.

Answer: .....

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer: .....

Garnishee

I (insert the name of the garnishee), do solemnly swear (or affirm) that the answers to the foregoing interrogatories by me subscribed are true.

(Signature of garnishee)

SUBSCRIBED and SWORN to before me this ..... day of the month of ..... of the year .....

**\*AB62\***



2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and ~~[file]~~ *submit* his answers ~~[or cause them to be filed in the proper court]~~ *to the sheriff* within the time required by the writ. If ~~[he]~~ *the garnishee* fails to do so, he shall be deemed in default.

**Sec. 3.** NRS 31.310 is hereby amended to read as follows:

31.310 1. Subject to order of the court, a garnishee defendant ~~[ ]~~ upon whom a writ of garnishment has been duly served ~~[ ]~~ shall not pay any debt due or to become due to the defendant and ~~[must]~~ *shall* retain in his possession and control, or deliver to the sheriff as provided herein, all personal property, effects, goods, chattels, rights, debts, credits or choses in action of the defendant.

2. In all cases the garnishee, upon ~~[the filing of]~~ *submitting* his answers to the garnishee interrogatories, may deliver to the sheriff or the officer serving the writ the property belonging to the defendant, together with the money due to the defendant, and the sheriff or officer shall give the garnishee defendant a receipt therefor, and thereupon the garnishee is relieved from further liability in the proceedings, unless his answer is successfully controverted.

3. The sheriff or officer shall hold ~~[such]~~ *the* property and money to be dealt with as provided in NRS 31.300 and shall, by certificate, make return to the court showing the receipt thereof specifically describing ~~[such]~~ *the* money and property and setting forth the date and time of its receipt. The certificate ~~[shall form]~~ *forms* a part of the return of the writ of garnishment.

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

31.320 1. If the garnishee has been duly served with the writ of garnishment and interrogatories, and been paid or tendered the fee of \$5, and the fact of ~~[such]~~ *the* payment or tender is duly certified by the officer who served the writ over his official signature, or ~~[such]~~ *that* fact is made to appear by the person serving the writ under oath, but the garnishee fails, neglects or refuses to answer the interrogatories within the time required, the court shall, upon application therefor by the plaintiff with at least 5 days' notice of the hearing upon ~~[such]~~ *the* application given to each defendant who has appeared in the action, enter judgment in favor of the defendant for the use of the plaintiff against the garnishee for :

(a) *The* value of the property or amount of money specified in the writ of garnishment ~~[ ]~~ ; or

(b) *If the garnishment is pursuant to NRS 31.291, the amount of the lien created pursuant to that section.*

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