

ASSEMBLY BILL NO. 119—ASSEMBLYMAN MARCHANT

PREFILED FEBRUARY 9, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing garnishment as it relates to spousal and child support. (BDR 3-732)

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; prioritizing claims for spousal and child support in satisfying multiple writs of garnishment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a court, when a garnishee is the subject of multiple writs of garnishment, to give first priority to a writ to satisfy a judgment for the collection of child support. (NRS 31.249) This bill likewise gives priority to writs of garnishment to satisfy judgments for the collection of spousal support over other claims.

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

Section 1. NRS 31.249 is hereby amended to read as follows:

31.249 1. No writ of garnishment in aid of attachment may issue except on order of the court. The court may order the writ of garnishment to be issued:

(a) In the order directing the clerk to issue a writ of attachment;
or

(b) If the writ of attachment has previously issued without notice to the defendant and the defendant has not appeared in the action, by a separate order without notice to the defendant.

2. The plaintiff's application to the court for an order directing the issuance of a writ of garnishment must be by affidavit made by or on behalf of the plaintiff to the effect that the affiant is informed and believes that the named garnishee:



1 (a) Is the employer of the defendant; or
2 (b) Is indebted to or has property in the garnishee's possession
3 or under the garnishee's control belonging to the defendant,
4 ➡ and that to the best of the knowledge and belief of the affiant, the
5 defendant's future wages, the garnishee's indebtedness or
6 the property possessed is not by law exempt from execution. If the
7 named garnishee is the State of Nevada, the writ of garnishment
8 must be served upon the State Controller.

9 3. The affidavit by or on behalf of the plaintiff may be
10 contained in the application for the order directing the writ of
11 attachment to issue or may be filed and submitted to the court
12 separately thereafter.

13 4. Except as otherwise provided in this section, the grounds
14 and procedure for a writ of garnishment are identical to those for a
15 writ of attachment.

16 5. If the named garnishee is the subject of more than one writ
17 of garnishment regarding the defendant, the court shall determine
18 the priority and method of satisfying the claims, except that any writ
19 of garnishment to satisfy a judgment for the collection of child
20 support *or spousal support* must be given first priority. *As between*
21 *writs of garnishment to satisfy judgments for the collection of*
22 *child support and writs of garnishment to satisfy judgments for the*
23 *collection of spousal support, the court shall give priority in*
24 *accordance with the provisions of subsection 2 of NRS 31A.160.*

25 **Sec. 2.** This act becomes effective on July 1, 2017.

