



HOUSE BILL No. 6084

September 12, 1996, Introduced by Reps. Crissman, Goschka, McBryde, Hammerstrom, Green, Gernaat, LeTarte, Horton, Middleton, Dolan, Dobb, Rocca, Lowe, Jellema, Byl, Pitoniak, Bodem, Jamian, Yokich, Brewer, Rhead, Geiger and Voorhees and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 4011 of Act No. 236 of the Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,"
as amended by Act No. 346 of the Public Acts of 1994, being section 600.4011 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 4011 of Act No. 236 of the Public Acts
2 of 1961, as amended by Act No. 346 of the Public Acts of 1994,
3 being section 600.4011 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 4011. (1) Subject to sections 4061 and 4061a, and the
6 conditions in subsections (2) to (10), the court has power by
7 garnishment to apply the following property or obligation, or
8 both, to the satisfaction of a claim evidenced by contract,
9 judgment of this state, or foreign judgment, whether or not the

1 state has jurisdiction over the person against whom the claim is
2 asserted:

3 (a) Personal property belonging to the person against whom
4 the claim is asserted but which is in the possession or control
5 of a third person if the third person is subject to the judicial
6 jurisdiction of the state and the personal property to be applied
7 is within the boundaries of this state.

8 (b) An obligation owed to the person against whom the claim
9 is asserted if the obligor is subject to the judicial jurisdic-
10 tion of the state.

11 (2) Except as provided in sections 4061 and 4061a, the court
12 may exercise the jurisdiction granted in this section only in
13 accordance with the Michigan court rules. Except as otherwise
14 provided by sections 4061 and 4061a and the Michigan court rules,
15 the state and each governmental unit within the state, including
16 but not limited to a public, municipal, quasi-municipal, or gov-
17 ernmental corporation, unincorporated board, public body, or
18 political subdivision, may be proceeded against as a garnishee in
19 the same manner and with the same effect as a proceeding against
20 an individual garnishee.

21 (3) A writ of garnishment may be issued before judgment only
22 as provided in this subsection. Upon ex parte application show-
23 ing that the person against whom the claim is asserted is not
24 subject to the judicial jurisdiction of the state or, after dili-
25 gent effort, cannot be served with process as required to subject
26 the person to the judicial jurisdiction of the state, a copy of
27 the writ of garnishment shall be served upon the person against

1 whom the claim is made in the same manner as provided by the
2 Michigan court rules for service of process in other civil
3 actions in which personal jurisdiction over the defendant is not
4 required. Upon entry of judgment in the principal action, the
5 obligation or property garnished shall be applied to the satis-
6 faction of the judgment.

7 (4) A garnishment proceeding shall not be commenced against
8 the state or a governmental unit of the state, including but not
9 limited to a public, municipal, quasi-municipal, or governmental
10 corporation, unincorporated board, public body, or political sub-
11 division, until after the plaintiff's claim has been reduced to
12 judgment.

13 (5) A garnishment proceeding shall not be commenced against
14 a person for money owing to a defendant on account of labor per-
15 formed by the defendant until after the plaintiff's claim has
16 been reduced to judgment.

17 (6) A sheriff or other public officer is not subject to gar-
18 nishment for money or things received or collected by him or her
19 pursuant to an execution or other legal process in the favor of
20 the defendant or because of any money in his or her hands for
21 which he or she is accountable merely as a public officer to the
22 defendant. HOWEVER, A SHERIFF IS SUBJECT TO GARNISHMENT FOR
23 MONEY HELD IN AN INMATE'S INSTITUTIONAL ACCOUNT IF THE GARNISH-
24 MENT IS FOR THE PURPOSE OF SATISFYING AN ORDER OF A COURT OF THIS
25 STATE TO PAY COURT COSTS OR FEES.

1 (7) A garnishment proceeding shall not be commenced if the
2 commencement of such a proceeding is forbidden by a statute of
3 this state.

4 (8) Except as otherwise provided in sections 4012 and 4061,
5 a plaintiff shall pay a fee of \$1.00 to the garnishee at the time
6 the garnishee is served with a writ of garnishment.

7 (9) If the court or garnishee possesses money or property
8 pursuant to a writ of garnishment after the court releases the
9 garnishee from liability under that writ, the court shall convey
10 or order the conveyance of the money or property to any of the
11 following, as the court determines appropriate:

12 (a) The defendant's attorney, if the defendant is repre-
13 sented by counsel in the garnishment proceeding.

14 (b) The defendant, if the defendant is not represented by
15 counsel in the garnishment proceeding.

16 (c) The plaintiff.

17 (10) A writ of garnishment is not effective if both of the
18 following conditions are met:

19 (a) The plaintiff fails to provide the garnishee with infor-
20 mation sufficient for the garnishee to identify the defendant.

21 (b) The garnishee provides the court with written notice of
22 the insufficiency described in subdivision (a).