CHAPTER 642

GARNISHMENT

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642.1 Who may be garnished.

A sheriff may be garnished for money of the defendant in the sheriff's hands; a judgment debtor of the defendant, when the judgment has not been assigned on the record, or by writing filed in the office of the clerk and by the clerk minuted as an assignment on the margin of the judgment docket; and an executor, for money due from decedent.

[C51, §1862; R60, §3196; C73, §2976; C97, §3936; C24, 27, 31, 35, 39, §**12158;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.1]

Garnishment proceedings by director of revenue, director of inspections and appeals, or director of workforce development, §626.29 – 626.31

Response of garnishee, see R.C.P. 1.304

642.2 Garnishment of public employer.

1. The state of Iowa, and all of its governmental subdivisions and agencies, may be garnished, only as provided in this section and the consent of the state and of its governmental subdivisions and agencies to those garnishment proceedings is hereby given. However, notwithstanding the requirements of this chapter, income withholding notices shall be served on the state, and all of its governmental subdivisions and agencies, pursuant to the requirements of chapter 252D.

2. Garnishment pursuant to this section may be made only upon a judgment against an employee of the state, or of a governmental subdivision or agency thereof.

3. No debt of the garnishee is subject to garnishment other than the wages of the public employee.

4. Notwithstanding subsections 2, 3, 6, and 7, any moneys owed to the child support obligor by the state, with the exception of unclaimed property held by the treasurer of state pursuant to chapter 556, and payments owed to the child support obligor through the Iowa public employees' retirement system are subject to garnishment, attachment, execution, or assignment by the child support recovery unit if the child support recovery unit is providing enforcement services pursuant to chapter 252B. Any moneys that are determined payable by the treasurer pursuant to section 556.20, subsection 2, to the child support obligor shall be subject to setoff pursuant to section 8A.504, notwithstanding any administrative rule pertaining to the child support recovery unit limiting the amount of the offset.

5. Except as provided in subsection 1, service upon the garnishee shall be made by serving an original notice with a copy of the judgment against the defendant, and with a copy of the questions specified in section 642.5, by certified mail or by personal service upon the attorney general, county attorney, city attorney, secretary of the school district, or legal counsel of the appropriate governmental unit. The garnishee shall be required to answer within thirty days following receipt of the notice.

6. If it is established that the garnishee owed wages to the defendant at the time of being served with the notice of garnishment, judgment shall be entered, subject to the

requirement of section 642.14 against the garnishee in an amount not exceeding the amount recoverable upon the judgment against the defendant employee, but in no event shall the judgment granted be for any amount in excess of that permitted by section 642.21 and section 537.5105.

7. A judgment in garnishment issued pursuant to this section shall be enforceable against a garnishee only to the extent of the defendant's wages actually in the possession of the garnishee, and shall not be enforceable against any property, claims or other rights of the garnishee.

8. A person garnisheed pursuant to this section shall be subject to the provisions of this chapter not inconsistent with this section.

[R60, §3196; C73, §2976; C97, §3936; C24, 27, 31, 35, 39, §**12159;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.2; 81 Acts, ch 200, §1]

92 Acts, ch 1195, §209; 97 Acts, ch 175, §240; 2008 Acts, ch 1187, §127

Referred to in **§96.3**

642.3 Fund in court.

Where the property to be attached is a fund in court, the execution of a writ of attachment shall be by leaving with the clerk of the court a copy thereof, with notice, specifying the fund.

[R60, §3197; C73, §2977; C97, §3937; C24, 27, 31, 35, 39, §**12160;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.3]

642.4 Death of garnishee.

If the garnishee dies after the garnishee has been summoned by garnishment and pending the litigation, the proceedings may be revived by or against the garnishee's heirs or legal representatives.

[R60, §3198; C73, §2978; C97, §3938; C24, 27, 31, 35, 39, §**12161;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.4]

642.5 Sheriff may take answers.

1. When the plaintiff, in writing, directs the sheriff to take the answer of the garnishee, the sheriff shall put to the garnishee the following questions:

> [1] Are you in any manner indebted to the defendant in this suit, or do you owe the defendant money or property which is not yet due? If so, state the particulars.
>
> [2] Have you in your possession or under your control any property, rights, or credits of the said defendants? If so, what is the value of the same? State all particulars.
>
> [3] Do you know of any debts owing the said defendant, whether due or not due, or any property, rights, or credits belonging to the defendant and now in the possession or under the control of others? If so, state the particulars.
>
> [4] Do you compensate the defendant in this suit for any personal services whether denominated as wages, salary, commission, bonus or otherwise, including periodic payments pursuant to a pension or retirement program? If so, state the amount of the compensation reasonably anticipated to be paid defendant during the calendar year.

2. The sheriff shall append the examination to the sheriff's return.

[C51, §1864, 1865; R60, §3200, 3201; C73, §2980; C97, §3939; C24, 27, 31, 35, 39, §**12162;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.5]

84 Acts, ch 1239, §9; 2011 Acts, ch 25, §76

642.6 Garnishee required to appear.

If the garnishee refuses to answer fully and unequivocally all the foregoing interrogatories, the garnishee shall be notified to appear and answer as above provided, and the garnishee may be so required in any event, if the plaintiff so notifies the garnishee.

[C51, §1866; R60, §3202; C73, §2981; C97, §3940; C24, 27, 31, 35, 39, §**12163;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.6]

642.7 Examination in court.

The questions propounded to the garnishee in court may be such as are above prescribed to be asked by the sheriff, and such others as the court may think proper.

[C51, §1867; R60, §3203; C73, §2982; C97, §3941; C24, 27, 31, 35, 39, §**12164;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.7]

642.8 Witness fees.

Where the garnishee is required to appear at court, unless the garnishee has refused to answer as contemplated above, the garnishee is entitled to the pay and mileage of a witness, and may, in like manner, require advance payment before any liability shall arise for nonattendance.

[C51, §1868; R60, §3204; C73, §2983; C97, §3942; C24, 27, 31, 35, 39, §**12165;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.8]

Witness fees and mileage, §622.69 – 622.75

642.9 Failure to appear or answer — cause shown.

If, duly summoned, and the garnishee's fees tendered when demanded, the garnishee fails to appear and answer the interrogatories propounded to the garnishee without sufficient excuse, the garnishee shall be presumed to be indebted to the defendant to the full amount of the plaintiff's demand, but for a mere failure to appear no judgment shall be rendered against the garnishee until the garnishee has had an opportunity to show cause against the same.

[C51, §1869, 1870; R60, §3205, 3206; C73, §2984, 2985; C97, §3943; C24, 27, 31, 35, 39, §**12166;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.9]

642.10 Paying or delivering.

A garnishee may, at any time after answer, be exonerated from further responsibility by paying over to the sheriff the amount owing by the garnishee to the defendant, and placing at the sheriff's disposal the property of the defendant, or so much of said debts and property as is equal to the value of the property to be attached.

[C51, §1871; R60, §3207; C73, §2986; C97, §3944; C24, 27, 31, 35, 39, §**12167;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.10]

642.11 Answer controverted.

When the garnishee has answered the interrogatories propounded to the garnishee, the plaintiff may controvert them by pleading thereto, and an issue may be joined, which shall be tried in the usual manner, upon which trial such answer of the garnishee shall be competent testimony.

[C51, §1872; R60, §3208; C73, §2987; C97, §3945; C24, 27, 31, 35, 39, §**12168;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.11]

642.12 Notice of controverting pleadings.

No judgment shall be rendered against a garnishee on a pleading which controverts the garnishee's answer until notice of the filing of the controverting pleading and of the time and place of trial thereon is served on the garnishee for such time and in such manner as the court or judge shall order. A garnishee who has been so notified shall not be entitled to notice of the filing of amendments or of trial thereon.

[C27, 31, 35, §12168-b1; C39, §**12168.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.12]

642.13 Judgment against garnishee.

If in any of the above methods it is made to appear that the garnishee was indebted to the defendant, or had any of the defendant's property in the garnishee's hands, at the time of being served with the notice of garnishment, the garnishee will be liable to the plaintiff, in case judgment is finally recovered by the plaintiff, to the full amount thereof, or to the amount of such indebtedness or property held by the garnishee, and the plaintiff may have a judgment against the garnishee for the amount of money due from the garnishee to the defendant in the main action, or for the delivery to the sheriff of any money or property in the garnishee's hands belonging to the defendant in the main action within a time to be fixed by the court, and for the value of the same, as fixed in said judgment, if not delivered within the time thus fixed, unless before such judgment is entered the garnishee has delivered to the sheriff such money or property. Property so delivered shall thereafter be treated as if levied upon under the writ of attachment in the usual manner.

[C51, §1871, 1873; R60, §3207, 3209; C73, §2986, 2988; C97, §3946; C24, 27, 31, 35, 39, §**12169;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.13]

642.14 Notice of garnishment proceedings.

Judgment against the garnishee shall not be entered until the defendant in the main action has had ten days' notice of the garnishment proceedings, to be served in the same manner as original notices. However, if the garnishment is to earnings owed such defendant by the garnishee, judgment may be entered if notice to the defendant is served with the notice of garnishment to the garnishee who shall deliver the notice to the defendant with the remainder of or in lieu of the defendant's earnings. The garnishee shall state in answer to the service of notice of garnishment whether or not service of notice was delivered to the defendant.

The notice required by this section shall contain the full text of section 630.3A.

[C51, §1861; R60, §3195; C73, §2975; C97, §3947; S13, §3947; C24, 27, 31, 35, 39, §**12170;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.14]

84 Acts, ch 1239, §10; 88 Acts, ch 1076, §1; 2014 Acts, ch 1090, §1

Section amended

642.14A Notice of garnishment and levy.

1. Within seven days after execution is served upon a garnishee, the sheriff shall send a notice of garnishment and levy to the defendant in the main action informing the defendant that certain real and personal property of the defendant may be exempt from execution or garnishment and that a hearing process is available for the defendant to claim such exemptions.

2. The notice required by this section shall be served by personal service or restricted certified mail and first class mail to the last known address of the defendant and to the defendant's attorney. The judgment creditor shall provide the sheriff with the last known address of the defendant and the defendant's attorney if there is an attorney of record. Proof of mailing or personal service by the sheriff shall be by affidavit.

3. The notice required by this section shall:

a. Inform the defendant that judgment has been entered in the main action and the defendant's funds or other property is subject to execution under the judgment.

b. Inform the defendant that the defendant has the right to claim funds or other property exempt from execution or garnishment and a right to be timely heard on those claims.

c. Inform the defendant that if the defendant does not file a motion or other appropriate pleading to claim funds or other property exempt from execution or garnishment under state or federal law, the defendant may lose any such rights and the funds or other property may be applied to the judgment against the defendant.

d. Inform the defendant that state and federal laws may place limits on the amount of earnings that may be garnished annually and per pay period and limits on other funds and property that may be garnished or levied against.

e. Contain the full text of section 630.3A.

f. State that the defendant may wish to consult a lawyer for advice as to the meaning of the notice.

4. An additional court filing fee shall not be assessed for proceedings under this section.
2014 Acts, ch 1090, §2
NEW section

642.15 Pleading by defendant — discharge of garnishee.
The defendant in the main action may, by a suitable pleading filed in the garnishment proceedings, set up facts showing that the debt or the property with which it is sought to charge the garnishee is exempt from execution, or for any other reason is not liable for plaintiff's claim, and if issue thereon be joined by the plaintiff, it shall be tried with the issues as to the garnishee's liability. If such debt or property, or any part thereof, is found to be thus exempt or not liable, the garnishee shall be discharged as to that part which is exempt or not liable.
[C97, §3948; S13, §3948; C24, 27, 31, 35, 39, §**12171;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.15]

642.16 When debt not due.
If the debt of the garnishee to the defendant is not due, execution shall be suspended until its maturity.
[R60, §3210; C73, §2989; C97, §3949; C24, 27, 31, 35, 39, §**12172;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.16]

642.17 Negotiable paper — indemnity.
The garnishee shall not be made liable on a debt due by negotiable paper other than negotiable documents of title, or securities as defined in uniform commercial code, section 554.8102, unless such paper is delivered, or the garnishee completely exonerated or indemnified from all liability thereon after the garnishee may have satisfied the judgment.
[R60, §3211; C73, §2990; C97, §3950; C24, 27, 31, 35, 39, §**12173;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.17]

642.18 Judgment conclusive.
The judgment in the garnishment action, condemning the property or debt in the hands of the garnishee to the satisfaction of the plaintiff's demand, is conclusive between the garnishee and defendant.
[R60, §3212; C73, §2991; C97, §3951; C24, 27, 31, 35, 39, §**12174;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.18]

642.19 Docket to show garnishments.
The docketing of the original case shall contain a statement of all the garnishments therein, and when judgment is rendered against a garnishee, the same shall distinctly refer to the original judgment.
[R60, §3213; C73, §2992; C97, §3952; C24, 27, 31, 35, 39, §**12175;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.19]

642.20 Appeal.
An appeal lies in all garnishment cases at the instance of the plaintiff, the defendant, the garnishee, or an intervenor claiming the money or property.
[R60, §3214; C73, §2993; C97, §3953; C24, 27, 31, 35, 39, §**12176;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §642.20]

642.21 Exemption from net earnings.
1. The disposable earnings of an individual are exempt from garnishment to the extent provided by the federal Consumer Credit Protection Act, Tit. III, 15 U.S.C. §1671 – 1677 (1982). The maximum amount of an employee's earnings which may be garnished during any one calendar year is two hundred fifty dollars for each judgment creditor, except as provided in chapter 252D and sections 598.22, 598.23, and 627.12, or when those earnings are reasonably expected to be in excess of twelve thousand dollars for that calendar year as determined from the answers taken by the sheriff or by the court pursuant to section

642.5, question number four. When the employee's earnings are reasonably expected to be more than twelve thousand dollars, the maximum amount of those earnings which may be garnished during a calendar year for each creditor is as follows:

a. Employees with expected earnings of twelve thousand dollars or more, but less than sixteen thousand dollars, not more than four hundred dollars may be garnished.

b. Employees with expected earnings of sixteen thousand dollars or more, but less than twenty-four thousand dollars, not more than eight hundred dollars may be garnished.

c. Employees with expected earnings of twenty-four thousand dollars or more, but less than thirty-five thousand dollars, not more than one thousand five hundred dollars may be garnished.

d. Employees with expected earnings of thirty-five thousand dollars or more, but less than fifty thousand dollars, not more than two thousand dollars may be garnished.

e. Employees with expected earnings of fifty thousand dollars or more, not more than ten percent of an employee's expected earnings.

2. No employer shall:

a. Withhold from the earnings of an individual an amount greater than that provided by law.

b. Dispose of garnished wages in any manner other than ordered by a court of law.

c. Discharge an individual by reason of the individual's earnings having been subject to garnishment for indebtedness.

d. Be held liable for an amount not earned at the time of the service of notice of garnishment or for the costs of a garnishment action.

3. For the purpose of this section:

a. The term *"earnings"* means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

b. The term *"disposable earnings"* means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

[C51, §1901; R60, §3307; C73, §3074; C97, §4011; C24, 27, 31, 35, 39, §**11763;** C46, 50, 54, 58, 62, 66, 71, §627.10; C73, 75, 77, 79, 81, §642.21]

84 Acts, ch 1239, §11; 85 Acts, ch 178, §14; 2011 Acts, ch 25, §77

Referred to in **§537.5105**, **§537.5106**, **§537.5201**, **§627.6**, **§630.3A**, **§642.2**, **§642.22**

642.22 Validity of garnishment notice — duty to monitor account.

1. A notice of garnishment served upon a garnishee is effective without serving another notice until the earliest of the following:

a. The annual maximum permitted to be garnished under section 642.21 has been withheld.

b. The writ of execution expires.

c. The judgment is satisfied.

d. The garnishment is released by the sheriff at the request of the plaintiff or the plaintiff's attorney.

2. A supervised financial organization, as defined in section 537.1301, subsection 45, which is garnished for an account of a defendant, after paying the sheriff any amounts then in the account, shall monitor the account for any additional amounts at least monthly while the garnishment notice is effective.

3. Expiration of the execution does not affect a garnishee's duties and liabilities respecting property already withheld pursuant to the garnishment.

84 Acts, ch 1239, §12; 85 Acts, ch 93, §1; 86 Acts, ch 1238, §26; 87 Acts, ch 98, §7; 2001 Acts, ch 92, §2

Section not amended; internal reference change applied

642.23 Support disbursements by the clerk.

Notwithstanding the one-hundred-twenty-day period in section 626.16 for the return of an execution in garnishment for the payment of a support obligation, the sheriff shall promptly

deposit any amounts collected with the clerk of the district court, and the clerk shall disburse the amounts, after subtracting applicable fees, within two working days of the filing of an order condemning funds as follows:

1. To the person entitled to the support payments when the clerk of the district court is the official entity responsible for the receipt and disbursement of support payments pursuant to section 252B.14.

2. To the collection services center when the collection services center is the official entity responsible for the receipt and disbursement of support payments pursuant to section 252B.14.

85 Acts, ch 178, §15; 93 Acts, ch 79, §53; 2006 Acts, ch 1081, §2; 2006 Acts, ch 1129, §12

642.24 Garnishments — support payment priority.

The court shall include in any order for garnishment a requirement that any amount garnisheed for the payment of a support obligation, whether or not the amount represents a current or delinquent support obligation, shall first be paid out of the garnisheed funds, after subtracting applicable fees related to the issuance of the specific garnishment, before any amounts garnisheed for other purposes are paid out of the garnisheed funds.

90 Acts, ch 1050, §1