



## Ohio Revised Code

### Section 2716.041 Order of garnishment of personal earnings to be continuous.

Effective: August 29, 2000

Legislation: House Bill 294 - 123rd General Assembly

(A) When a municipal court, county court, or court of common pleas issues an order of garnishment of personal earnings following a judgment creditor's filing of an affidavit in accordance with section 2716.03 of the Revised Code and the judgment creditor's compliance with section 2716.04 of the Revised Code, the order shall operate in the manner described in this section, be served upon the garnishee in accordance with section 2716.05 of the Revised Code, be answered by the garnishee in accordance with division (E) of this section and sections 2716.05 and 2716.21 of the Revised Code, and be served upon the judgment debtor in accordance with section 2716.06 of the Revised Code.

(B) Except as otherwise provided in this section, an order of garnishment of personal earnings shall be a continuous order that requires the garnishee to withhold a specified amount calculated each pay period at the statutory percentage from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor commencing with the first full pay period beginning after the garnishee receives the order until the judgment in favor of the judgment creditor and the associated court costs, judgment interest, and, if applicable, prejudgment interest awarded to the judgment creditor have been paid in full. For this purpose, the order of garnishment of personal earnings shall specify the total probable amount due on the judgment; shall state that that total probable amount includes the unpaid portion of the judgment in favor of the judgment creditor and specify that unpaid portion; shall state that that total probable amount includes judgment interest and, if applicable, prejudgment interest at the rate prescribed in division (A) of section 1343.03 of the Revised Code or a different rate provided in a written contract and specify the applicable interest rate; and shall state that that total probable amount includes the court costs awarded to the judgment creditor and specify the amount of those court costs.

(C)(1) A continuous order of garnishment of personal earnings described in division (B) of this section remains in effect until whichever of the following first occurs:

(a) The total probable amount due on the judgment described in division (B) of this section is paid in full to the judgment creditor as a result of the garnishee's withholding of the specified amount from



the judgment debtor's personal disposable earnings during each pay period of the judgment debtor commencing with the first full pay period beginning after the garnishee receives the order.

(b) The judgment creditor files with the court that issued the order, and serves upon the garnishee and judgment debtor in the same manner as a summons is served, either a written notice that the total probable amount due on the judgment described in division (B) of this section has been paid in full to the judgment creditor in the manner described in division (C)(1)(a) of this section or otherwise has been satisfied or a written request to terminate the order of garnishment and release the garnishee from the mandate of the order of garnishment.

(c) A municipal or county court appoints a trustee for the judgment debtor pursuant to section 2329.70 of the Revised Code and issues to the garnishee an order that stays the continuous order of garnishment of personal earnings.

(d) A bankruptcy court of the United States issues to the garnishee an order that stays the continuous order of garnishment of personal earnings.

(e) A municipal or county court or a court of common pleas issues to the garnishee another order of garnishment of personal earnings that relates to the same judgment debtor and a different judgment creditor, and the law of this state or of the United States provides that the other order of garnishment of personal earnings has a higher priority than the pending continuous order of garnishment of personal earnings. A higher priority order of that nature may include, but is not limited to, a support order and an internal revenue service levy.

(f) A municipal or county court or a court of common pleas issues to the garnishee another order of garnishment of personal earnings that relates to the same judgment debtor and a different judgment creditor and that is not described in division (C)(1)(e) of this section.

(2) If the circumstances described in division (C)(1)(e) or (f) of this section apply to a continuous order of garnishment of personal earnings, division (D) of this section also applies to the garnishee and that order.

(3) As long as a continuous order of garnishment of personal earnings with respect to a particular



judgment debtor and a particular judgment creditor remains in effect or, if the circumstances described in division (C)(1)(e) or (f) of this section apply to an order of that nature, as long as division (D) of this section applies to the garnishee and an order of that nature, the particular judgment creditor may not file in any municipal or county court or any court of common pleas another affidavit as described in section 2716.03 of the Revised Code that pertains to the particular judgment debtor and the same judgment that underlies the order.

(4)(a) Subject to divisions (C)(1) and (D) of this section and section 2716.05 of the Revised Code, a garnishee to whom a municipal or county court or court of common pleas issues a continuous order of garnishment of personal earnings shall pay to the court within thirty days after each pay period of the judgment debtor ends the amount, calculated each pay period at the statutory percentage, that the order specifies to be withheld from the judgment debtor's personal disposable earnings during each pay period of the judgment debtor commencing with the first full pay period beginning after the garnishee receives the order. The payment to the court of that amount calculated each pay period at the statutory percentage shall be accompanied by the garnishee's interim report and answer that shall be substantially in the form set forth in section 2716.07 of the Revised Code and shall specifically state all of the following:

- (i) The date that the garnishee received the continuous order of garnishment of personal earnings;
- (ii) The total probable amount due on the judgment, as described in division (B) of this section;
- (iii) The amount of the judgment debtor's personal disposable earnings that has been withheld for the particular pay period and that is being submitted with the interim report and answer.

(b) A garnishee shall prepare each interim report and answer in triplicate, shall submit one complete and signed copy of that document to the court in accordance with division (C)(4)(a) of this section, shall retain one complete and signed copy of that document for the garnishee's records, and shall deliver one complete and signed copy of that document to the judgment debtor.

(c) A garnishee to whom a municipal or county court or court of common pleas issues a continuous order of garnishment of personal earnings may electronically perform both of the following:



(i) Pay to the court the amount calculated each pay period at the statutory percentage of the judgment debtor's personal disposable earnings that the order specifies to be withheld from the judgment debtor's personal disposable earnings by electronic transfer of funds if the court permits payment to be made electronically;

(ii) File the garnishee's interim report and answer or the garnishee's final report and answer by electronic image transmission if the clerk of the court permits the filing of documents electronically.

(d) A garnishee to whom a municipal or county court or court of common pleas issues a continuous order of garnishment of personal earnings shall file with the court the garnishee's interim report and answer for each pay period of the judgment debtor for which an amount from the judgment debtor's personal disposable earnings during that pay period was withheld for that order. The garnishee is not required to file an interim report and answer for any pay period for which no amount from the judgment debtor's personal disposable earnings during that pay period was withheld for that order.

(e) A garnishee to whom a municipal or county court or court of common pleas issues a continuous order of garnishment of personal earnings may deduct a processing fee of up to three dollars from the amount withheld from the judgment debtor's personal disposable earnings for each pay period of the judgment debtor that an amount from the judgment debtor's personal disposable earnings was withheld for that order. A garnishee shall not deduct the processing fee for any pay period in which no amount from the judgment debtor's personal disposable earnings during that pay period was withheld for that order and no garnishee's interim report and answer is filed. The garnishee's processing fee shall not be charged as court costs.

(5)(a) Subject to division (D) of this section, if a continuous order of garnishment of personal earnings ceases to remain in effect because of the operation of division (C)(1) of this section, the garnishee shall file with the municipal or county court or the court of common pleas that issued the order the garnishee's final report and answer. The final report and answer shall be substantially in the form set forth in section 2716.08 of the Revised Code and shall specifically state all of the following:

(i) The date that the garnishee received the continuous order of garnishment of personal earnings;

(ii) The total probable amount due on the judgment, as described in division (B) of this section;



(iii) The total amount of the judgment debtor's personal disposable earnings that the garnishee has withheld and paid to the court while the order remained in effect;

(iv) The reason listed in division (C)(1) of this section that precludes the continuation of the withholding of the specified amount of the judgment debtor's personal disposable earnings in accordance with the order. This reason shall be stated only if the total probable amount due on the judgment, as described in division (B) of this section, is not the total amount of the judgment debtor's personal disposable earnings that the garnishee withheld and paid to the court while the order remained in effect and if the reason that the order has ceased to remain in effect is described in division (C)(1)(c), (d), (e), or (f) of this section.

(b) A garnishee shall prepare each final report and answer in triplicate, shall submit one complete and signed copy of that document to the court in accordance with division (C)(5)(a) of this section, shall retain one complete and signed copy of that document for the garnishee's records, and shall deliver one complete and signed copy of that document to the judgment debtor.

(D)(1) Except as provided in division (D)(2) of this section, if a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor and if, at the time of the receipt of that order, the garnishee is the subject of a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, the previous order shall cease to remain in effect as described in division (C)(1)(f) of this section. However, for the time period up to and including the full pay period within which the one hundred eighty-second day from the date that the garnishee began processing the previous order falls, the garnishee shall withhold the specified amount from the judgment debtor's personal earnings in accordance with the previous order. During that time period, the previous order shall be deemed a higher priority order. Upon the expiration of that final full pay period, the garnishee shall comply with division (C)(5) of this section.

(2) If a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor, if, at the time of the receipt of that order, the garnishee is the subject of a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, and if the law of this state or of the United States provides that the subsequent



order has a higher priority than the previous order, the previous order shall cease to remain in effect as described in division (C)(1)(e) of this section. However, for the time period up to and including the full pay period within which the one hundred eighty-second day from the date the garnishee began processing the previous order falls, the garnishee shall comply with division (D)(3)(c)(ii) of this section. Upon the expiration of that final full pay period, the garnishee shall comply with division (C)(5) of this section.

(3)(a) Except as provided in division (D)(2) and (3)(b) and (c) of this section, if a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor and if, at the time of the receipt of that order, the garnishee is the subject of a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, the garnishee shall do both of the following:

(i) The garnishee shall process the subsequent order in the order in which the garnishee receives it, commencing with the first full pay period beginning after the subsequent order reaches highest priority, and only after all previously received orders of garnishment of personal earnings with respect to the same judgment debtor have been processed for a time period up to and including the full pay period within which the one-hundred-eighty-second day from the first processing date falls or have ceased to remain in effect for a reason listed in division (C)(1) of this section.

(ii) When, pursuant to the procedure required by division (D)(3)(a)(i) of this section for the stacking of orders of garnishment of personal earnings with respect to the same judgment debtor, the subsequent order reaches highest priority, the garnishee, commencing with the first full pay period beginning after the subsequent order reaches highest priority, shall process the subsequent order until the subsequent order ceases to remain in effect for a reason listed in division (C)(1) of this section.

(b) If a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor, if, at the time of the receipt of that order, the garnishee is the subject of a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, and if the previous order has a higher priority under division (D)(1) or (3)(a) of this section, the garnishee shall do both of the following:

(i) The garnishee shall withhold from the judgment debtor's personal earnings during each pay period



the amount, calculated each pay period at the statutory percentage, of the judgment debtor's personal disposable earnings during each pay period specified in the previous order for the requisite time period up to and including the full pay period within which the one-hundred-eighty-second-processing day falls or until the previous order ceases to remain in effect for a reason listed in division (C)(1) of this section.

(ii) If the maximum amount of the personal earnings of the judgment debtor that may be garnished during each pay period under the law of this state or of the United States is not exceeded after the application of division (D)(3)(b)(i) of this section, the garnishee shall withhold from the judgment debtor's personal disposable earnings during each pay period the amount, calculated each pay period at the statutory percentage, specified in one or more of the subsequent orders, in their order of priority, commencing with the first full pay period beginning after the subsequent order reaches priority, until the maximum amount, calculated each pay period at the statutory percentage, of the personal disposable earnings of the judgment debtor that may be garnished during each pay period under the law of this state or of the United States is reached and as long as the requisite time period up to and including the full pay period within which the one-hundred-eighty-second processing day falls has not expired with respect to a subsequent order and the subsequent order has not ceased to remain in effect for a reason listed in division (C)(1) of this section.

(c) If a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor, if, at the time of the receipt of that order, the garnishee is the subject of a previously received continuous order of garnishment of personal earnings with respect to the same judgment debtor, and if the subsequent order has a higher priority under division (D)(2) of this section, the garnishee shall do both of the following:

(i) The garnishee shall withhold from the judgment debtor's personal disposable earnings during each pay period the amount, calculated each pay period at the statutory percentage, specified in the subsequent order, commencing with the first full pay period beginning after the subsequent order reaches priority.

(ii) If the maximum amount of the personal earnings of the judgment debtor that may be garnished during each pay period under the law of this state or of the United States is not exceeded after the application of division (D)(3)(c)(i) of this section, the garnishee shall withhold from the judgment



debtor's personal disposable earnings during each pay period the amount, calculated each pay period at the statutory percentage, of the judgment debtor's personal disposable earnings during each pay period specified in one or more of the previous orders, in their order of priority, until the maximum amount of the personal earnings of the judgment debtor that may be garnished during each pay period under the law of this state or of the United States is reached and as long as the requisite time period up to and including the full pay period within which the one-hundred-eighty-second processing day falls has not expired with respect to a previous order and the previous order has not ceased to remain in effect for a reason listed in division (C)(1) of this section.

(E) If a garnishee receives an order of garnishment of personal earnings with respect to a particular judgment debtor and if, at the time of the receipt of that order, the garnishee is the subject of one or more previously received continuous orders of garnishment of personal earnings with respect to the same judgment debtor, the garnishee shall include in its answer of employer filed pursuant to section 2716.05 of the Revised Code in relation to the subsequent order all of the following information:

(1) The name of the court that issued the subsequent order and each previous order and the case number associated with each of those orders;

(2) The date that the garnishee received the subsequent order and each previous order;

(3) With respect to the subsequent order and each previous order, the balance due to the relevant judgment creditor at the time of the filing of the answer of employer. The garnishee shall calculate the balance due in relation to a particular order by subtracting the total amount of the judgment debtor's personal earnings that the garnishee previously has withheld and paid to the court pursuant to that order from the total probable amount due on the judgment underlying that order, as described in division (B) of this section.