

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2194

Introduced by

Senators Wardner, Klein, Kringstad

Representatives Glassheim, Keiser, Nottestad

1 A BILL for an Act to amend and reenact sections 32-09.1-07, 32-09.1-20, and 32-09.1-21 of the
2 North Dakota Century Code, relating to garnishment of wages.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 32-09.1-07 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **32-09.1-07. Form of summons and notice.** The garnishee summons must state that
7 the garnishee must serve upon the plaintiff or the plaintiff's attorney within twenty days after
8 service of the garnishee summons a written disclosure, under oath, of indebtedness to the
9 defendant and answers to all written interrogatories that are served with the garnishee
10 summons. The plaintiff may not require disclosure of indebtedness or property of the
11 defendant in the garnishee's possession or under the garnishee's control to the extent that the
12 indebtedness or property exceeds one hundred ten percent of the amount of the judgment
13 which remains unpaid. The garnishee summons must include the full name of the defendant
14 and place of residence and the amount of the judgment which remains unpaid. The garnishee
15 summons must also state that the garnishee must retain property or money in the garnishee's
16 possession pursuant to this chapter until the plaintiff causes a writ of execution to be served
17 upon the garnishee or until the defendant authorizes release to the plaintiff and must state that
18 after the expiration of the period of time specified in section 32-09.1-20, the garnishee must
19 release all retained property and money to the defendant and is discharged and relieved of all
20 liability on the garnishee summons. The garnishee summons must state that no employer may
21 discharge any employee because the employee's earnings are subject to garnishment. The
22 garnishee summons must state that any assignment of wages made by the defendant or
23 indebtedness to the garnishee incurred within ten days before the receipt of notice of the first
24 garnishment on the underlying debt is void. The garnishee summons must state the date of the

1 entry of judgment against the defendant. The garnishee summons must state that the
2 defendant must provide to the garnishee within ten days after receipt of the garnishee
3 summons a verified list of the dependent family members who reside with the defendant and
4 their social security numbers, if any, to have the maximum amount subject to garnishment
5 reduced under subsection 2 of section 32-09.1-03. The garnishee summons must state that
6 failure of the defendant to provide a verified list to the garnishee within ten days after receipt of
7 the garnishee summons is conclusive with respect to whether the defendant claims no family
8 members.

9 The garnishee summons and notice to defendant must be substantially in the following
10 form:

11 State of North Dakota) In _____ Court
12) ss.
13 County of _____) _____
14 _____
15 Plaintiff
16 against Garnishee Summons and
17 _____ Notice to Defendant
18 Defendant
19 and
20 _____
21 Garnishee

22 The State of North Dakota to the above-named Garnishee:

23 You must serve upon the plaintiff or the plaintiff's attorney, within twenty days after
24 service of this summons upon you, a written disclosure, under oath, setting forth the
25 amount of any debt you may owe to the defendant, _____ (give full
26 name and residence of defendant) and a description of any property, money, or effects
27 owned by the defendant which are in your possession. Your disclosure need not
28 exceed \$_____. (Enter 110 percent of the plaintiff's judgment which remains
29 unpaid.) The date of entry of the judgment against the defendant was _____
30 (enter date of entry of plaintiff's judgment) and the amount of the judgment that remains
31 unpaid is \$_____.

(Address)

(Telephone)

SECTION 2. AMENDMENT. Section 32-09.1-20 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-20. Termination of garnishment. A garnishee summons lapses and the garnishee is discharged of any liability upon the expiration of ~~one hundred eighty~~ two hundred seventy days after the service of the summons, or a longer period of time either agreed to in writing by the plaintiff and the defendant or ordered by the court. Immediately upon the lapse of the garnishee summons, all earnings, money, property, and effects ~~which that~~ the garnishee has been retaining pursuant to the garnishment ~~shall~~ must be returned to the defendant if the defendant is otherwise legally entitled to receipt of them.

SECTION 3. AMENDMENT. Section 32-09.1-21 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-21. Continuing lien on wages. A plaintiff may obtain a ~~ninety-day~~ one hundred eighty-day continuing lien on wages by garnishment. ~~If a lien is to be obtained, the A~~ plaintiff obtaining a continuing lien on wages by garnishment shall mark "continuing lien" on the caption of the garnishee summons "~~continuing lien~~" and all. Each garnishment disclosure forms form must ~~include the following:~~

Garnishee provide the garnishee will continue to hold the nonexempt portion of the defendant's earnings as ~~they~~ the earnings accrue through the last payroll period ending on or before ~~ninety~~ one hundred eighty days from the effective date of the garnishee summons, or until the sum held equals the amount stated in the garnishee summons, or until the employment relationship terminates, whichever first occurs.

~~At the time of~~ the expected termination of the lien, the plaintiff shall mail ~~to~~ the garnishee an additional copy of the garnishment disclosure form upon which the garnishee within ten days shall make further disclosure.