

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2378

Introduced by

Senators Dever, Lyson, Syverson

Representatives Dosch, L. Meier, Weiler

1 A BILL for an Act to amend and reenact section 32-09.1-09 of the North Dakota Century Code,  
2 relating to the garnishment disclosure form.

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

4 **SECTION 1. AMENDMENT.** Section 32-09.1-09 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **32-09.1-09. Disclosure.** Within the time as limited, the garnishee shall serve upon the  
7 plaintiff or the plaintiff's attorney written answers, under oath, to the questions in the  
8 garnishment disclosure form and to any written interrogatories that are served upon the  
9 garnishee. The amount of the garnishee's disclosure need not exceed one hundred ten  
10 percent of the amount of the plaintiff's judgment which remains unpaid, after subtracting the  
11 total of setoffs, defenses, exemptions, ownerships, or other interests. The written answers may  
12 be served personally or by mail. If disclosure is by a corporation or limited liability company, it  
13 must be verified by some officer, manager, or agent having knowledge of the facts. Disclosure  
14 must state:

- 15 1. The amount of disposable earnings earned or to be earned within the defendant's  
16 pay periods which may be subject to garnishment and all of the garnishee's  
17 indebtedness to the defendant.
- 18 2. Whether the garnishee held, at the time, the title or possession of or any interest in  
19 any personal property or any instruments or papers relating to any property  
20 belonging to the defendant or in which the defendant is interested. If the garnishee  
21 admits any interest or any doubt respecting the interest, the garnishee shall set  
22 forth a description of the property and the facts concerning the property and the  
23 title, interest, or claim of the defendant in or to the property.



1 garnishment to enforce any order for the support of a dependent child.  
2 "Earnings" includes military retirement pay. "Disposable earnings" means  
3 that part of the earnings of an individual remaining after the deduction from  
4 those earnings of amounts required by law to be withheld. If the garnishee  
5 summons was served upon you at a time when earnings from a prior  
6 completed pay period were owing but not paid, complete the following  
7 disclosure for earnings from both the past pay period and the current pay  
8 period.

9 a. ~~Enter on the line below the amount of disposable earnings earned or to~~  
10 ~~be earned by the defendant within the defendant's pay periods which~~  
11 ~~may be subject to garnishment.~~

12 \_\_\_\_\_

13 b. ~~Enter on the line below forty times the hourly federal minimum wage~~  
14 ~~times the number of workweeks within the defendant's pay periods~~  
15 ~~which may be subject to garnishment. When pay periods consist of~~  
16 ~~other than a whole number of workweeks, each day of a pay period in~~  
17 ~~excess of the number of completed workweeks must be counted as a~~  
18 ~~fraction of a workweek equal to the number of workdays divided by the~~  
19 ~~number of workdays in the normal workweek.~~

20 \_\_\_\_\_

21 e. ~~Enter on the line below the difference obtained (never less than zero)~~  
22 ~~when line b is subtracted from line a. If the amount is zero, skip lines d~~  
23 ~~through g and enter zero on line h.~~

24 \_\_\_\_\_

25 d. ~~Enter on the line below 25 percent of line a.~~

26 \_\_\_\_\_

27 e. ~~Enter on the line below the lesser of line c and line d.~~

28 \_\_\_\_\_

29 f. ~~Enter on the line below the number of dependent family members living~~  
30 ~~with the defendant (if properly claimed within ten days after receipt of~~  
31 ~~the garnishee summons).~~

- 1 \_\_\_\_\_  
2 g. Enter on the line below an amount equal to the number of dependents  
3 (line f) times twenty dollars times the number of workweeks used to  
4 compute line b.  
5 \_\_\_\_\_  
6 h. Enter on the line below the difference (never less than zero) when line  
7 g is subtracted from line e.  
8 \_\_\_\_\_
- 9 2. Money. Enter on the line below any amounts due and owing defendant,  
10 except earnings, from the garnishee.  
11 \_\_\_\_\_
- 12 3. Property. Describe on the line below any personal property, instruments, or  
13 papers belonging to the defendant and in the possession of the garnishee.  
14 \_\_\_\_\_
- 15 4. Setoff. If the amount set forth on lines 1(h), 2, and 3 is zero, skip lines 5  
16 through 8 and go to line 9. If the amount set forth on lines 1(h), 2, and 3 is  
17 more than zero, enter on the line below the amount of any setoff, defense,  
18 lien, or claim which the garnishee claims against the amount set forth on lines  
19 1(h), 2, and 3. Allege the facts by which the setoff, defense, lien, or claim is  
20 claimed. (Any indebtedness to a garnishee employer incurred by the  
21 judgment debtor within ten days before the receipt of the first garnishment on  
22 a debt is void and should be disregarded.)  
23 \_\_\_\_\_  
24 \_\_\_\_\_
- 25 5. Adverse Interest. Enter on the line below any amounts claimed by other  
26 persons by reason of ownership or interest in the defendant's property. State  
27 each person's name and address and the nature of that person's claim, if  
28 known. (Any assignment of wages made by the defendant within ten days  
29 before the receipt of the first garnishment on a debt is void and should be  
30 disregarded.)  
31 \_\_\_\_\_

- 1           6. ~~Enter on the line below the total of lines 4 and 5.~~  
2           \_\_\_\_\_
- 3           7. ~~Enter on the line below the difference obtained (never less than zero) when~~  
4           ~~line 6 is subtracted from the sum of lines 1(h), 2, and 3.~~  
5           \_\_\_\_\_
- 6           8. ~~Enter on the line below 110 percent of the amount of the judgment creditor's~~  
7           ~~judgment which remains unpaid.~~  
8           \_\_\_\_\_
- 9           9. ~~If the amount set forth on lines 1(h), 2, and 3 is zero, enter zero on the line~~  
10          ~~below. If the amount set forth on lines 1(h), 2, and 3 is more than zero, enter~~  
11          ~~on the line below the lesser of line 7 and line 8. As garnishee, you are hereby~~  
12          ~~instructed to retain this amount only if it is \$10.00 or more.~~  
13          \_\_\_\_\_
- 14          10. ~~If this form was completed for the plaintiff for the immediately preceding pay~~  
15          ~~period and the amount on line 9 was less than \$10.00, the answers to~~  
16          ~~disclosure for the immediately preceding pay period remain in effect and the~~  
17          ~~garnishee is not required to answer the questions in the garnishment~~  
18          ~~disclosure for subsequent pay periods until the amount on line 9 is \$10.00 or~~  
19          ~~more.~~
- 20          2. Adverse interest and setoff. Any setoff, defense, lien, or claim by the  
21          garnishee or other persons by reason of ownership or interest in the  
22          defendant's property. You must state the name and address and the nature  
23          of that person's claim if known. (Any assignment of wages made by the  
24          defendant or any indebtedness to a garnishee within ten days before the  
25          receipt of the first garnishment on a debt is void and should be disregarded.)
- 26          3. Dependent. Any family member of the defendant who is residing in the  
27          defendant's residence. (If properly claimed within ten days after receipt of the  
28          garnishee summons.)
- 29          4. Worksheet:
- 30            a. Total earnings in pay period \_\_\_\_\_
- 31            b. Federal tax \_\_\_\_\_

