

- The amount of revenue generated from filing fees paid to Municipal, County and Common Pleas Courts by creditors seeking to garnish wages from debtors could drop significantly. It is difficult to estimate the statewide loss of local revenue because the fees of the courts associated with garnishment affidavits are independently established and may vary from court to court.
- There potentially could be a minimal increase in expenditures for the Clerks of Municipal, County and Common Pleas Courts. The creation of continuous orders could increase the workload related to monitoring multiple garnishments. However, it is unlikely that additional full-time employees would need to be hired to manage such an increase.
- This bill would give permissive authority to judges and to clerks of courts to seek a higher rate of collection of court costs. Judges would be able to incorporate court costs into withholding orders issued by the court in Child Support Cases. The extension of the withholding order extends the administrative responsibility of the local Child Support Enforcement Agency and may result in additional costs to the county CSEA. Court clerks would be authorized to enter into contracts with public or private vendors to collect court costs under “cost orders.” Additional revenues collected by these means are already owed to the local courts.

Detailed Fiscal Analysis

The bill attempts to simplify the process that creditors go through in order to garnish the wages of debtors. Currently, an action for the garnishment of a debtor’s wages cannot begin before 30 days after the filing of the last successful wage garnishment action. This has created a system where a creditor who cannot be made whole with a single month’s garnishment must start the filing process over again after the initial thirty-day period. The creditor files another affidavit with additional fees for the court and for the garnishee. However, the process is currently first come, first served for creditors seeking wage garnishments. Only one creditor can recover on a single garnishment order during the thirty-day period. This has created a system in which creditors are continually filing and paying fees to the appropriate Clerk of Courts without any guarantee of recovering any of the sought amount.

This bill would allow a creditor to file a single affidavit with fees that establishes a continuous garnishment that is effective until either the debt is paid off or another subsequent order is filed causing certain limitations to take effect. If the subsequent order is a higher priority order and can be satisfied within a period of 182 days of the filing of the previous order, then the original order may resume until either satisfaction of the debt or the end of the original 182-day period. If the subsequent higher priority order cannot be satisfied within the 182-day period, then the original order would need to be re-filed. The priority order could be re-filed if it is not satisfied within the 182-day period of its original filing.

If a subsequent order is filed that is not a higher priority than the previous order, then the original order remains in effect for a total of 182 days or until the debt is satisfied, whichever comes first. If an original order is not satisfied within 182 days and a subsequent, non-priority order has been filed the original order must be re-filed and takes a subordinate position to all currently filed orders. The subsequent order takes the lead position for 182 days or until it is satisfied, whichever comes first. If the second order isn’t satisfied after that 182 days, then the next order that had been filed takes over the lead position and the second order needs to be re-filed and becomes subordinate to all other filed orders. The first order could retake the lead

position if there are only two orders seeking to be satisfied. Orders that have a high-priority take precedence at anytime over other orders. This revolving wheel of garnishment orders may continue until all judgments are satisfied.

This should cut down on the total number of affidavits that will be filed by creditors. The reduction in filings will result in a decrease in revenues from related filing fees. It is difficult to estimate the amount of revenue lost statewide or to a specific court or locality. The court fees that accompany affidavits filed for the garnishment of wages vary from court to court. There is currently a separate fee of \$1 that is for the garnishee (employer). The bill would increase this fee to \$10. However, the number of fees paid to the garnishee will also decrease. It is not possible to estimate whether the increased dollar amount will, on average, offset loss from the decline in the number of garnishment orders filed. However, this fiscal effect has no direct impact upon state or local governments, just on employers.

The clerk of courts will face a shift in the workload that they currently shoulder. When there would be multiple creditors seeking a garnishment of wages from a single debtor, the clerk's office would face a greater workload than is currently handled at the time of filing. The amount of work to be done over time would appear to be less than the total amount that is currently performed, with everything being equal. The simplification of the process may have the effect of increasing the use of wage garnishment as a means of recovering debts. The Ohio Creditors Attorney's Association has indicated that the workload of the courts should decrease as a reflection of the decrease in the number of repeat filings. However, managers and supervisors in the clerk's offices have insisted that their workload will increase over both the short and long term periods.

Court	Number of Affidavits Filed	Accompanying Fee
Akron Municipal Court	14,295	\$16.00
Cleveland Municipal Court	26,045	\$21.00
Cuyahoga Falls Municipal Court	2,586*	\$20.00
Dayton Municipal Court	27,155	\$10.00
Franklin County Municipal Court	48,495	\$10.00
Hamilton County Municipal Court	32,750	\$17.50
Parma Municipal Court	1,344	\$25.00
Toledo Municipal Court	35,068*	\$14.00

**Denotes total garnishments filed, not just those against personal earnings (wages).*

The preceding table illustrates the approximate number of filed garnishments of personal earnings (wages) and the local fee that accompanies the affidavit in eight of the state's nine largest municipal courts. This is the number of affidavits filed and not reflective of the number of successful garnishments. The number of garnishment actions in municipal and county courts is the overwhelming majority of those sought. There are very few garnishments of personal earnings filed with the courts of common pleas, though it does occasionally happen. Several employees of the major Clerks of Courts offices stated that the introduction of such a continuous garnishment order would cut more than half of the current number of filings. A rough projection with this assumption and the above figures projects a probable revenue loss totaling of \$1.2 million. However, while this bill has the potential to cause a significant downturn in the amount of revenues collected by the various courts, the courts have the ability to change fees and court

costs to make the situation revenue neutral. O.R.C. § 1901.26(A)(1) and § 1907.24(A)(1) respectively require each municipal and county court to establish by rule a schedule of fees and court costs for civil and criminal actions and proceedings. The courts may decide to increase the fee that accompanies the affidavits. This would increase the revenues from filings while maintaining the financial burden on the individual seeking the claim, the creditor. However, the courts could implement a court cost that is taken out of the debtor's garnished wages that essentially transfers the burden of recouping lost revenues through the debtor. In any event, the courts have the permissive ability to change their requirements to enable them to recover any potential loss.

The bill would also make changes to the way in which court costs may be collected. This could potentially lead to an increase in the state and local revenues generated by court costs. However, these funds are already owed and any increase in revenues would reflect simply an enhanced ability to collect on these. The bill attempts to improve the collection of court costs in two ways. First, a judge may seek to add court costs onto a "withholding order or notice" that is issued in a child support action. This would require a Child Support Enforcement Agency (CSEA) to continue withholding after all support obligations, health care obligations and processing charges have been paid, thus extending their administrative responsibility. Before termination of a support order, CSEA's would contact the clerk of the court who issued the support order to verify whether all the court costs have been paid. If the court costs haven't been paid, then the order will remain in effect until all court costs have been assessed. In this situation, it could be several years before court costs would be collected. In judgements other than child support, the bill supplements existing law regarding execution procedures to recover court costs with a new certificate of judgement collection mechanism. A judge may include a grant of judgment for costs in an order and this would authorize the clerk of the court to issue a certificate of judgement against the person who is liable for the payment of the court costs. A clerk of court who wishes to issue such a certificate may do so and may contract with one or more public agencies or private vendors for the collection of amounts due on a judgement for costs.

It is difficult to estimate the size of the potential fiscal effect of the provisions regarding the improved methods of collecting court costs. The authority granted in the bill is permissive. Additionally, the amount of current court costs not collected is not reported to the state by the localities. However, any additional court costs recovered would provide additional revenue for various state and local funds, including such state funds as: GRF, the Children's Trust Fund, the Legal Aid Fund, the Domestic Violence Shelters Fund and the Reparations Fund. Any increase in expenditures would probably be offset by the increase in revenues generated by the increased collection of the court costs.

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