

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 880
SENATE BILL 661

AN ACT TO PERMIT THE GARNISHMENT OF WAGES FOR CERTAIN DEBTS
OWED TO PUBLIC HOSPITALS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 131E of the General Statutes is amended by adding a new Article 5A to read:

"Article 5A.

"Garnishment for Debts Owed Public Hospitals.

"§ 131E-48. **Definitions.**—As used in this Article, unless the context clearly requires otherwise:

(1) 'Disposable earnings' means that part of the compensation paid or payable for personal services, including wages, salary, commission, bonus, payments to a pension or retirement program, and other similar payments that remain after the deduction of any amounts required by law to be withheld.

(2) 'Family' means a parent or parents and minor children or spouses that reside together.

(3) 'Family income of the debtor' means family income as set out in the annual federal poverty guidelines issued by the United States Department of Health and Human Services in effect at the time of the hearing, less the amount of the costs of the family's reasonable ongoing medical needs.

(4) 'Garnishee' means an employer liable for compensation for personal services rendered or to be rendered by a person who is indebted to a public hospital for hospital services.

(5) 'Hospital services' means services rendered only by the public hospital. Hospital services shall include professional charges of any physician or medical student, but only if the physician or student is an employee of the public hospital.

(6) 'Public hospital' means any hospital facility operated on a nonprofit basis, any hospital that is owned or operated by the State, or any hospital as defined in G.S. 159-39(a).

"§ 131E-49. **Procedure for garnishment.**—(a) A public hospital may move the court in the county wherein the debtor resides for an order for garnishment of the disposable earnings of the debtor after 10 days following the entry of a judgment for a sum certain for hospital services rendered if the following conditions have been met:

(1) The public hospital has made reasonable efforts to collect the bill from any third-party payors;

(2) The public hospital has waited for a period of at least 120 days following the mailing of the bill for hospital services rendered to the debtor's last known address; and

(3) The public hospital has sent a certified letter to the debtor's last known address which includes information that the debtor's disposable earnings may be subject to wage garnishment unless the debtor shows the hospital that his family income is at or below two hundred percent (200%) of the annual federal poverty guidelines. The letter shall include the definition of family, family income, the current federal poverty guidelines in effect at the time of the letter, and the procedures to contest the proposed garnishment.

(b) The court may enter an order of garnishment following notice requirements set forth in this Article and a hearing held pursuant to the motion for garnishment. Provided, however, that the court shall not enter an order of garnishment unless the court makes findings of fact that the current family income of the debtor, at the time of the hearing, exceeds two hundred percent (200%) of the guidelines. The notice of the motion for garnishment shall include information that the debtor's disposable earnings shall not be garnished if the debtor shows that his current family income is at or below two hundred percent (200%) of the annual federal poverty guidelines and the definition of family, family income, and the guidelines shall be attached to such notice. The notice shall also state the procedures and duties applicable under this Article, including the procedures the debtor should follow to contest the proposed garnishment. The court shall presume that the current family income of the debtor exceeds two hundred percent (200%) of the federal poverty guidelines if the debtor or his representative fails to appear at the hearing held on the motion for garnishment. If an order for garnishment is entered, a copy of the order shall be served on the debtor and the garnishee either personally or by certified or registered mail, return receipt requested.

(c) The court shall not enter an order of garnishment if the debtor is making regular payments to the public hospital that are equal to ten percent (10%) of the debtor's monthly disposable earnings. Further, the court shall not enter an order of garnishment if the debtor satisfactorily shows that he is making a good faith effort to obtain payment for hospital services from a third-party payor.

(d) The court shall not enter an order of garnishment which exceeds ten percent (10%) of the debtor's monthly disposable earnings. The court shall not enter an order of garnishment which is in effect for a period in excess of 60 months from the date of the initial order of garnishment.

(e) The amount garnished shall be increased by an additional one dollar (\$1.00) processing fee to be assessed and retained by the garnishee for each payment under the order.

(f) The garnishment order shall be subject to review for modification or dissolution upon the filing of a motion in the cause. The garnishment order shall be dissolved upon a showing by the debtor that his current family income equals or is less than two hundred percent (200%) of the annual federal poverty guidelines issued by the United States Department of Health and Human Services in effect at the time of the hearing on the motion.

(g) Upon receipt of an order of garnishment, the garnishee shall transmit the amount ordered by the court to be garnished to the clerk of court who shall disburse it to the public hospital. The garnishee shall not be required to change normal pay cycles, but shall make every effort to ensure that payments are received as soon as practicable. The garnishment order shall simplify the withholding process for garnishees to the extent possible.

"§ 131E-50. Penalties.—No employee may be discharged from employment or suffer any disciplinary action because he has been subject to garnishment of his wages if one of the garnishments was under this Article. An employee who believes that this provision has been violated may bring an action against the employer. In any such action, the court for cause shown shall restrain violations and order payment of damages, including backpay, reinstatement, and all other appropriate relief, including payment of the employee's reasonable costs and attorney's fees.

"§ 131E-51. Applicability.—Garnishment of disposable earnings under this Article 18 is in lieu of any other execution against the property of the debtor. Upon the satisfaction of the judgment or the expiration of the order of garnishment or 60 months from the date of the entry of the order of garnishment, whichever occurs first, the clerk shall mark the judgment paid and satisfied."

Sec. 2. Upon ratification of this act, Chapter 1005 of the 1973 Session Laws, Chapters 845 and 1093 of the 1979 Session Laws, and Chapter 1051 of the 1983 Session Laws are repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of June, 1988.