



Please Vote YES on HB19-1189

## **Making Wage Garnishment Fairer for Working Coloradans**

*Reps. Gray & A. Valdez and Sen. Bridges*

### **How does wage garnishment work in Colorado?**

- If an individual owes money to a creditor, the creditor can go to court to collect the debt. If the creditor is successful, it will obtain a court order requiring the individual to pay the creditor. At that point, the creditor can start a garnishment action in which the court orders the individual's employer to deduct money from the individual's paycheck until the debt is paid in full.
- Under current Colorado law, an employer must perform three calculations to determine how much of an individual's paycheck for a week's work may be garnished and sent to the creditor:
  - First, the employer must reduce the individual's gross pay for the week by deducting taxes and any court-ordered children's health insurance. The resulting amount is called "Disposable Earnings."
  - Second, the employer must calculate 25% of the Disposable Earnings for the week.
  - Third, the employer must subtract from the Disposable Earnings for the week an amount equal to the current Colorado minimum wage (\$11.10) multiplied by 30 (or \$333).
  - Finally, the employer must compare the results of the second and third calculations and send the smaller amount to the creditor.
  - Example: If an individual worked 40 hours in a week at the minimum wage, the gross pay would be \$444. If withholding taxes equaled 10%, the Disposable Earnings would be approximately \$400. 25% of \$400 would be \$100. Disposable Earnings of \$400 reduced by \$333 would be \$67. Therefore, the employer would send \$67 to the creditor.

### **The Issue:**

- Garnishing the wages of lower income individuals is a severe form of debt collection when used against people who are barely making ends meet in the first place. It often forces them to forego some basic necessities for their families and themselves and can even push them into bankruptcy.
- A 2017 national study, conducted from the perspective of employers by the ADP Research Institute, found that wage garnishments disproportionately impact lower income individuals - those earning between \$20,000 and \$60,000.
- At best, Colorado is in the middle of all states in protecting individuals' paychecks from onerous garnishment. CCLP's own analysis shows that Colorado may rank as low as 34<sup>th</sup> among the 50 states, the District of Columbia, Puerto Rico, and the US Virgin Islands. In addition, Colorado's garnishment law provides inadequate time and notice to allow affected individuals to protect their interests.

- For a single parent with two children, who is working full-time at the 2019 Colorado minimum wage of \$11.10, garnishment under the present law would result in that family's after-tax income going from 98% of the 2019 federal poverty guidelines level to 82%. Each week, \$67 would be deducted from the parent's paycheck, reducing take-home pay from \$400 to \$333. If the garnishment continued for a year, the total amount garnished would be \$3,484, and the family's after-tax income would fall from \$20,800 to \$17,316. Even if the same parent were earning \$15.00 an hour, the family's income would be reduced by \$135 each week, reducing take-home pay from \$540 to \$405, and drop from 132% of the federal poverty level to 99%. This family's annual after-tax income would decrease from \$28,080 to \$21,060
- According to the 2018 Self-Sufficiency Standard for Colorado, in the least expensive county in the state, income for a household of three must be at least 180% of the federal poverty level in order to be able pay for rent, food, transportation, child care, and health care. In Denver, which ranks 14<sup>th</sup> among Colorado's 64 counties in cost of living, that number increases to 316%.

### What would HB19-1189 do?

- Require clearer and more timely notice of a garnishment to permit individuals to understand their options and prepare for the possible reduction in their income.
- Reduce the Disposable Earnings subject to garnishment by the amount of premiums for individuals and their families on employer-provided health insurance voluntarily purchased by individuals.
- Reduce the amount subject to garnishment by modifying the numbers in the description above of how garnishment works to 20% and 40 times the minimum wage to help people meet their minimum needs while also paying their debts.
- Create a general hardship exemption that would permit individuals to prove in court that the amounts of their pay subject to garnishment should be further reduced or eliminated altogether if the individuals prove specified types of actual and necessary expenses and account for other family income.
- Apply to garnishments initiated on or after January 1, 2020.
- Not affect wage garnishments for child or spousal support or fraudulently obtained public benefits.

### Support for HB19-1189

Colorado Center on Law and Policy

National Consumer Law Center, on behalf of its low-income clients

The Bell Policy Center

Colorado Fiscal Institute

Towards Justice

Colorado Cross-Disability Coalition

The Arc of Colorado

Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)

All Families Deserve a Chance (AFDC) Coalition

National Association of Consumer Advocates

Colorado Coalition for the Homeless

Center for Health Progress Service Employees

International Union (SEIU) Colorado

Colorado Consumer Health Initiative