

MINNESOTA FAMILY SUPPORT & RECOVERY COUNCIL

2017 ANNUAL CONFERENCE




## Garnishment of Wages

Presenters: Jeff Hoffman, C.O. BCHS  
Terri Pongratz, C.O. NCHS

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MINNESOTA FAMILY SUPPORT & RECOVERY COUNCIL

2017 ANNUAL CONFERENCE




## Before We Begin

- Benton County & Nicollet County Processes: Information given is in no way a substitute for the rules/guidelines/advice from your county attorney, court, or your agency policy.
- Assumptions Made: It is assumed that attendees know how to obtain and docket judgment or will inquire about that process outside of this presentation.
- Focused on garnishment from employer.

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## Why Garnish?

- Effective
- Generally Quick
- Supported by Court Order

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### Starting the Process

- Judgment must be docketed.
- Send Garnishment Exemption Notice and Notice of Intent to Garnish.
- Complete Affidavit of Service.
- Allow for 10 days to pass.
- If a valid exemption is claimed you must STOP the garnishment action.

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### Valid Exemptions

- Currently receiving need based assistance (Cash, Food, Medical, SSI, and Energy or Fuel).
- Received need based assistance in the last six months.
- Been incarcerated in a correctional institution in the last six months.
- Must provide information regarding their exemption claim.

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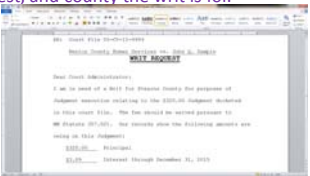
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### No Response/ No Valid Exemption

- Request a Writ of Execution from Court Administration.
- Provide the court with the file number, file title, principal amount, interest, and county the writ is for.



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**The Writ**

- File a partial satisfaction of judgment if any payments have been received.
- Court will send you the writ along with two copies. Check the writs to make sure all information is correct.
- On page two fill in the related costs not included by the court on the page one total.
- Sign page one of the original and the two copies.
- Writ is valid for 180 days. Must be renewed after 70 days if for non-child support debt.

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**Service on the Employer**

- Create a cover letter and have a \$15.00 check made payable to the employer (MN Stat. 571.76)
- Send copies of the Garnishment Summons, Garnishment Earnings Disclosure, Instructions for Completing the Earnings Disclosure, Non-Earnings Disclosure Form, and the Writ of Execution.
- Must be sent via certified mail or by Sheriff's Service.
- Complete affidavit of service by certified mail.

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**Service on the Client**

- Send copies of all the forms served on the employer, plus a copy of the affidavit of service of certified mail to the client.
- Must be sent with in 5 days of service on the employer.
- Can be sent via regular mail.
- Complete the affidavit of service by mail.

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### Different Service Process

- Nicollet County uses:
- Affidavit of Wage Assignment
- Demand for Disclosure
- Service by Sheriff
- Conditional Release of Garnishment and Monies Held.



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### Affidavit of Wage Assignment

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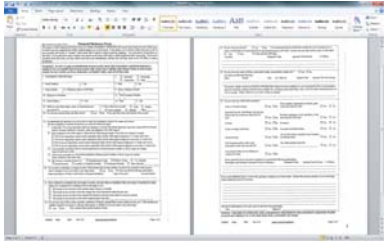

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### Demand for Disclosure

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### Service By Sheriff



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### CRG & AMH



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### Information Overload Yet?



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### After the Initial Service

- If nearing 70 days and the judgment is not paid in full, the garnishment must be renewed.
- Send the employer the garnishment papers again with a cover letter indicating that you are renewing or continuing the garnishment. Include another \$15.00 Fee.
- Send to employer and copies to client. Complete affidavits of service.

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### Writ Satisfied/Expired

- Once the claim along with all related fees are satisfied, file a satisfaction of judgment and return the writ to court marked satisfied in full and sign it.
- If the writ is about to expire and is partially paid, file a partial satisfaction, and indicate on page two of the writ the partial satisfaction amount and sign.
- File an affidavit of taxable costs (affidavit of increased costs) for the garnishment fee(s) and service costs.
- Request a new Writ if need be.

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### Unused or Unsatisfied Writ

- Writ must still be returned
- Mark the appropriate box and sign the bottom of page two.
- Request a new Writ if practical.



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**Road Blocks to Garnishment**

- Valid Exemption
- Unemployed/Under-employed
- Insufficient disposable income
- Higher priority withholdings



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**Conclusion**

- Garnishment can be an effective form of recovery.
- Can take sometime and process must be followed.
- Becomes easier with repetition.
- Questions???

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**Contact Info**

Jeff Hoffman, Collections Officer, Benton Co.  
320-968-5143, [jhoffman@co.benton.mn.us](mailto:jhoffman@co.benton.mn.us)

Terri Pongratz, Collections Officer, Nicollet Co.  
507-934-8561, [Terri.Pongratz@co.nicollet.mn.us](mailto:Terri.Pongratz@co.nicollet.mn.us)

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STATE OF MINNESOTA  
Plaintiff(s)  
Plaintiff(s)

AFFIDAVIT OF WAGE ASSIGNMENT  
Court File No: Court File No.

vs.

Defendant  
Defendant.

STATE OF MINNESOTA                    )  
  )  
COUNTY OF County Name            )

TEMPORARY ASSIGNMENT OF WAGES

I, Name, the Defendant in the above named Court file, do hereby authorize my employer, Employer Name, Employer Address.to withhold the sum of \$Dollar Amount, per Payment Range from my wages and forward such sum to Nicollet County Human Services, to be applied to my account. Payment must be remitted to Nicollet County Human Services, 622 South Front Street, St Peter MN 56082-2106 within 10 days of the withholding. This is for an outstanding debt account that I have been court ordered to pay in the amount of \$Dollar Amount.

I request this Temporary Assignment of Wages remain in effect until this debt is paid in full. Termination of the Temporary Assignment of Wages will be sent by Nicollet County Human Services once the debt is paid in full. The balance of my net earnings is to be paid to me.

I acknowledge that I have read this document, and understand and accept the terms of this Assignment.

FURTHER YOUR AFFIANT SAITH NOT.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Defendant: Defendant Name

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public



CHOOSE DATE

COUNTY SHERIFF  
ADDRESS  
CITY STATE ZIP

Re: Writ Service

Nicollet County Human Services respectfully requests the NAME County Sheriff's Department serve the enclosed Writ of Execution on EMPLOYER NAME/ADDRESS. Nicollet County has a judgment against employee CLIENT NAME.

The following documents are enclosed:

1. Original Writ of Execution
2. A copy of the Writ of Execution
3. A copy of the Affidavit of Identification
4. A copy of the 10-day Exemption Notice
5. A check in the amount of \$AMOUNT payable to NAME County Sheriff's Department for service fees.

Please be advised that on CHOOSE DATE the Garnishment Summons, Notice and Exemption Notice, the DISCLOSURE/NON-DISCLOSURE and a \$15.00 fee were mailed to EMPLOYER/BANK. When adding your Sheriff fees to the Writ, please include this \$15.00 fee in your total for collection on our behalf.

If you have any questions, please feel free to call me at PHONE NUMBER.

Thank you for your assistance in this matter.

Sincerely,

WORKER NAME  
Collection Officer  
Collections Department  
Nicollet County Human Services

Enclosure: #

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF COUNTY NAME

DISTRICT # JUDICIAL DISTRICT

Court File No.: COURT FILE #

Case Type: Civil

Nicollet County CHOOSE Services,  
622 South Front Street  
St. Peter, MN 56082-2106

**CONDITIONAL RELEASE OF  
GARNISHMENT**

Creditor,

**AND**

against

**ASSIGNMENT OF MONIES HELD**

NAME

Debtor,

and

NAME

Garnishee.

TO THE GARNISHEE NAMED ABOVE: Upon payment to Nicollet County Human Services of the sum of **\$DOLLAR AMOUNT**, Garnishee shall be fully released and discharged from further liability, obligation or responsibility in the above-entitled action arising from any and all summonses, interrogatories, motions or other papers and pleadings hereinbefore served upon said Garnishee by the undersigned attorney.

Payment should be sent in one lump sum to:

Nicollet County Human Services  
Attn: Collections Department  
622 South Front Street  
St. Peter, MN 56082-2106

Dated: \_\_\_\_\_

NAME

Attorney ID#: ID #

Assistant Nicollet County Attorney

Attorney for Nicollet County Human Services

Nicollet County Attorney's Office

501 South Minnesota Avenue

Saint Peter, MN 56082-2507

Phone: (507) 934-7890

TO THE GARNISHEE NAMED ABOVE: I direct you to deduct the sum of **\$ DOLLAR AMOUNT** from my earnings due me and held in the above-entitled garnishment proceeding and pay that amount to Nicollet County Human Services to whom I hereby assign said monies for value.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Debtor

Print Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\* Should this form be signed by both parties, the Debtor should make and retain a copy for their records and forward the original, signed document to their employer. The employer should then make and retain a copy for their records and send the original, signed agreement to **Nicollet County Human Services**.

**Financial Disclosure Form**

The purpose of this Financial Disclosure Form is to tell the JUDGMENT CREDITOR what money and property you have which may be used to pay the judgment the creditor obtained against you in the lawsuit. It also allows you to tell the creditor that some or all of your property and money is "exempt," which means that it cannot be taken to pay the judgment. You must answer all questions on this form. If you need more space, continue your answer on the back of the form or attach additional sheets if necessary. If you have questions about this form, you may contact your local court administrator, call the court self help center at 651-259-3888, or contact an attorney.

**WARNING: IF YOU CLAIM AN EXEMPTION IN BAD FAITH, OR IF THE JUDGMENT CREDITOR WRONGFULLY OBJECTS TO AN EXEMPTION IN BAD FAITH, THE COURT MAY ORDER THE PERSON WHO ACTED IN BAD FAITH TO PAY COSTS, ACTUAL DAMAGES, ATTORNEY FEES, AND AN EXTRA \$100.**

1. JUDGMENT DEBTOR Name		2. <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other _____	
3. Street Address	4. City	5. State	6. Zip
7. Date of Birth	8. If Married, Spouse's Full Name		9. Home Telephone Number ( )
10. Employer or Business		11. Work Telephone Number ( )	
12. Street Address	13. City	14. State	15. Zip
16. What are your total wages, salary, or commissions per pay period? \$ _____		17. How often are you paid? <input type="checkbox"/> Daily <input type="checkbox"/> Weekly <input type="checkbox"/> Twice a Month <input type="checkbox"/> Monthly Other _____	
18. Do you have income from any other source? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, give the source and amount of the income: _____			
19. By answering this question, you will be able to claim the exemptions you have for wages and income. The first exemption is already checked for you, check all others that apply: <input checked="" type="checkbox"/> I claim that 75% of my disposable (after-tax) earnings or 40 times the federal minimum wage (now equals \$290 for 40-hour week) is exempt (whichever is greater), unless the judgment is for child support. <input type="checkbox"/> If the Judgment is for child support, I claim that the following percentage of my after-tax earnings is exempt: <input type="checkbox"/> 50% (I am supporting a spouse and/or dependent child, and the child support judgment is 12 weeks old or less.) <input type="checkbox"/> 55% (I am supporting a spouse and/or dependent child, and the child support judgment is more than 12 weeks old.) <input type="checkbox"/> 60% (I am not supporting a spouse and/or dependent child, and the child support judgment is 12 weeks old or less.) <input type="checkbox"/> 65% (I am not supporting a spouse and/or dependent child, and the child support judgment is more than 12 weeks old.) <input type="checkbox"/> I am presently receiving or have received relief based on need in the past 6 months so all my wages are exempt. Type of relief you receive _____ <input type="checkbox"/> I have been an inmate in a correctional institution within the past 6 months so all my wages are exempt. Name institution and release date _____ <input type="checkbox"/> My income is exempt because it is: <input type="checkbox"/> Unemployment Comp. <input type="checkbox"/> Worker's Comp. <input type="checkbox"/> V.A. Benefits <input type="checkbox"/> Social Security <input type="checkbox"/> Accident or Disability Benefits <input type="checkbox"/> Retirement Benefits <input type="checkbox"/> Other (Specify) _____			
20. Do you have a checking or savings account? (This includes any account whether you have it by yourself or with someone else, or whether it is in your name or any other name) <input type="checkbox"/> Yes <input type="checkbox"/> No For each, provide the following information: Name and address of bank, Credit Union or Financial Institution                      Type of Account                      Account Number			
21. If you claimed an exemption for your wages or income, you may claim an exemption when your money is deposited in a bank. Claim your exemptions by checking the boxes that apply to you: <input type="checkbox"/> The money in my account is from exempt wages, income, or benefits. <input type="checkbox"/> The money in my account is from the exempt sale of my homestead within the past year. <input type="checkbox"/> The money in my account is from exempt life insurance received on the death of a spouse or parent. <input type="checkbox"/> The money in my account is from other exempt property (specify) _____			
22. Do you have any stocks, bonds, securities, certificates of deposit, mutual funds, money market account, etc.? (This includes any whether owned by you alone or with any other person, or whether it is in your name or any other name.) <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, itemize these and the location of each. _____			

23. Do you own your home?  Yes  No Your homestead (house owned and occupied by you) is exempt up to a Value of \$390,000 or if used primarily for agricultural purposes, \$975,000. Do you own any other houses, land, or real estate?  
 Yes  No For each, give the following:

Location	Estimated Value	Amount Owed (if any)	To Whom

24. Do you own any motor vehicles, motorcycles, boats, snowmobiles, trailers, etc.?  Yes  No  
 For each, provide the following:

Make	Model	Year	Lic. Plate No.	Market Value	Amount You Owe (if any)

One motor vehicle worth up to \$4,600 (or \$46,000 if the vehicle has been modified at a cost of at least \$3,450 to accommodate a physical disability making a disabled person eligible for a parking permit under Minn. Stat. § 169.345) after subtracting what you owe is exempt. Which vehicle do you want to claim as exempt?

25. Do you own any of the follow property?

- |  |  |  |  |
|--|--|--|--|
| Cash or travelers checks   | <input type="checkbox"/> Yes <input type="checkbox"/> No | Farm supplies, implements, livestock, grain worth more than \$13,000 | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Household goods, furnishings, and personal effects that are worth more than \$10,350 total | <input type="checkbox"/> Yes <input type="checkbox"/> No | Business equipment, tools, machinery worth more than \$11,500 total  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Jewelry  | <input type="checkbox"/> Yes <input type="checkbox"/> No | Inventory  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Coins or stamp collections   | <input type="checkbox"/> Yes <input type="checkbox"/> No | Accounts receivable/claims   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Firearms/Guns  | <input type="checkbox"/> Yes <input type="checkbox"/> No | Are you the owner or partner in any business not already listed      | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Life insurance policy with a cash (surrender) value more than \$9,200                      | <input type="checkbox"/> Yes <input type="checkbox"/> No | Any other property (specify) _____                                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Any property that you are selling on a contract for deed                                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |  |  |

If you answered yes to any item in question 25, provide the following information:

Description and location of property (if not at residence)	Estimated Value	Amount Owed (if any)	To Whom

If you need additional space to answer the questions, continue your answers here. Indicate the question number you are answering. Attach additional sheets if necessary.

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The above information is true and correct to the best of my knowledge.  
 Date: \_\_\_\_\_ Signature: \_\_\_\_\_

**NOTICE: FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM TO THE JUDGMENT CREDITOR WITHIN 10 DAYS MAY RESULT IN A CITATION FOR CIVIL CONTEMPT OF COURT.**

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF BENTON

SEVENTH JUDICIAL DISTRICT

CIVIL DIVISION

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,  
Plaintiff(s),

AFFIDAVIT OF TAXABLE COSTS  
COURT FILE 05-

vs.

,  
Defendant(s).

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STATE OF MINNESOTA)  
  )SS.  
COUNTY OF BENTON )

Erin Aasen, being duly sworn, deposes and says that she/he is a Fiscal Services Specialist for Benton County Human Services in the above-entitled action; that to the best of her/his knowledge, information, and belief, the following are taxable costs relating to the above matter:

1. . . . . \$

Total Costs . . . . . \$

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Erin Aasen  
Benton County Human Services  
Courthouse, PO Box 740  
Foley, MN 56329  
Telephone (320) 968-5143

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF BENTON

SEVENTH JUDICIAL DISTRICT

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,'  
Plaintiff(s),

AFFIDAVIT OF SERVICE BY MAIL  
COURT FILE 05-

vs.

,'  
Defendant(s).

-----  
STATE OF MINNESOTA)  
  )SS  
COUNTY OF BENTON )

Erin Aasen, Fiscal Services Specialist for the County of  
Benton, office of Benton County Human Services in the city of  
Foley, state of Minnesota, being duly sworn, states that on the  
day of 20 , she/he served the Affidavit of  
Taxable Costs, on , the Defendant  
in this action, by mailing to Defendant a true and correct copy  
thereof, enclosed in an envelope, first class postage prepaid,  
and by depositing same in the United States mail at Foley,  
Minnesota, directed to said Defendant at ,  
the last known address of said Defendant.

\_\_\_\_\_  
Erin Aasen

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Notary Public