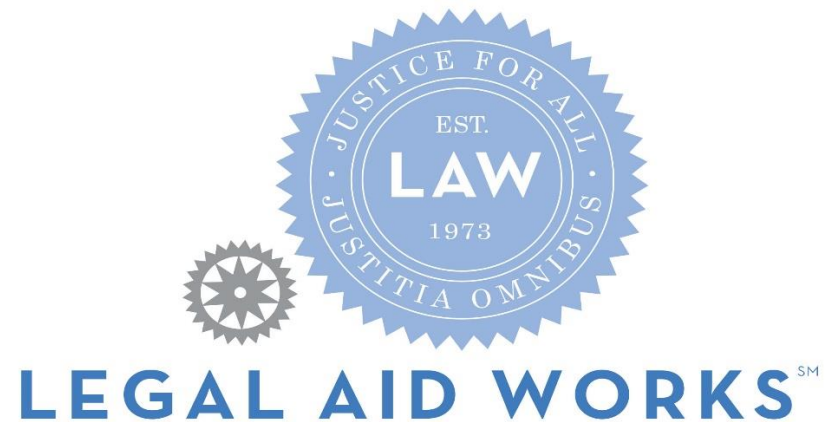


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Legal Aid WorksSM
Fredericksburg Office

Know Your Rights:

Garnishment

Working for Equal Justice Since 1973

Information provided by Legal Aid WorksSM.

If you have a specific question, please
consult Legal Aid WorksSM at:

500 Lafayette Boulevard
Suite 100
Fredericksburg, VA 22401
Telephone: (540) 371-1105
Fax: (540) 371-1114
www.LegalAidWorks.org

What is a garnishment?

Garnishment means that wages, bank accounts, and other money payable to you gets paid to a creditor instead. A creditor is a person or business to whom you owe money. In order to use legal methods such as garnishment to take your money, a creditor **MUST** first have a judgment from a court, which is just a piece of paper that states that you owe someone a certain amount of money. A creditor with a judgment is called a judgment-creditor.

What types of money can't be garnished?

GOVERNMENT BENEFITS CAN NOT BE GARNISHED. This includes Social Security, Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), unemployment compensation, workers' compensation, and Veterans' benefits. These benefits also can't be garnished if you keep them separate from any other money you have (for example, in a separate bank account). Pensions can't be garnished. Child support also cannot be garnished, because it is legally the property of your child.

A garnishment summons to a bank from an employer can temporarily freeze your bank account. If this happens, get help right away, because you need to object by filing a garnishment exemption claim.

How much money will I have left?

After receiving a garnishment summons, the bank still must allow you access to an amount (called the "protected amount") equal to the **SMALLER** of the following:

- the sum of exempt federal benefits directly deposited to the account during the last two months, or,
- the balance in the account on the date of the account review.

For an account containing a protected amount, the bank may not collect a garnishment fee from the protected amount. The bank may only collect a garnishment from funds in excess of the protective amount.

How much of my wages can be garnished?

Wages can't be garnished unless gross wages minus amounts that must be withheld by law are at least \$290.00 per week. (If you support a dependent minor child living with you, this amount can be higher). Amounts that must be withheld by law include federal and state taxes. They don't include optional deductions from wages. A judgment-creditor may garnish the **SMALLER** of the following amounts:

- the amount by which gross wages minus amounts that must be withheld by law exceed \$290.00 per week.
- 25% of gross wages minus amounts that must be withheld by law.

What happens when I get garnished?

If you get garnished, you and your employer (or you and your bank) will receive a garnishment summons. A garnishment is good for 30, 60, 90, or 180 days at the choice of the judgment-creditor. The garnished money is under the control of the court until the garnishment period is over. The garnishment period ends at what is called the "return date." This gives you a chance to object and claim that the money can't be garnished.

How do I object to a garnishment?

You do this by filing a Garnishment Exemption Claim Form with the court that issued the garnishment. You may be able to do this by yourself, but it is not recommended. You may lose income or property if you don't know the law. You must get a court hearing on or before the return date to object to the garnishment. At the hearing, you have a chance to explain why the money can't be garnished. If the judge agrees, the money is released to you.