

HOW TO PREVENT GARNISHMENTS

What is a garnishment?

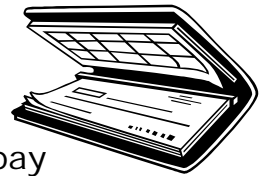
"Garnish" means that the money you owe comes out of your paycheck before you get it. The money is then sent to the person that you owe. Usually, your paycheck can only be garnished after you have been sued and you lost.



How do I keep my paycheck from being garnished?

There are 3 ways to keep your paycheck from being garnished:

1. Pay the full amount that you owe; or
2. Make a written agreement with the person that sued you to pay a certain amount each week or month. This agreement should be filed with the court clerk; or
3. File an installment payment motion (also known as a slow pay motion) with the court.



Paying the full amount you owe

You can stop a garnishment before it even starts by paying the full amount that you owe. You must pay this full amount within ten days of your court date. You pay the amount to the clerk of the court. The clerk will give you a receipt for your payment. If you don't pay the full amount within ten days of your court date, then your paycheck could be garnished.

A garnishment can be stopped anytime by paying the court clerk's office what you owe. You should give your receipt from the clerk to your employer to show that you have paid the debt in full. Once the employer receives the receipt, all further garnishments should stop.



Making an agreement with the person you owe

Sometimes the person that you owe will agree not to garnish your pay if you agree to make regular payments. Do not agree to pay more than you can afford. You should keep in mind that a garnishment allows you to keep at least \$196.50 each week. This amount is counted after Social Security and income taxes are taken out of your check. You should not agree to make payments that would leave you with less than \$196.50 each week.

If your checks are already being garnished, you may be able to stop the garnishment by reaching an agreement with the person that you owe. If you both can agree on a weekly or monthly payment, then put the agreement in writing. You should make sure that the person that you owe tells the clerk in writing to stop the garnishment.



Filing a motion for installment payments

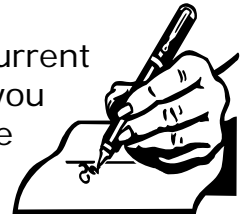
A motion for installment payments is also known as a “slow pay motion”. This motion is a paper that asks the Judge to let you make small payments over time. The payments leave you enough money to pay your other necessary bills. You can file a slow pay motion anytime after the Judge decides that you owe the money in court. You do not need a lawyer to file a motion for installment payments.



1. Get the form at your local court clerk's office.

The order for installment payments should be signed by the same judge who entered the judgment against you. So you must request the installment order in that court. You can request a copy of the form from the court clerk's office. The form will ask you to fill in information about where you work, how much you make, how often you are paid, and how much you can pay towards your debt. Consider your budget carefully when you decide the amount to pay. If you miss a payment, your wages can be garnished again.

On the form you will also have to fill in information on your current monthly expenses, property that you own, and property that you have given away in the last six months. Finally, you'll need the name and address of the person who sued you, your case number, and the total amount that you owe. If you don't have all of these facts, the clerk will help you get them. You must also attach a copy of your last year's tax return. You must sign the form under oath in front of a notary or in front of the court clerk.



2. File the completed form with the court clerk.

After filling out your form, you need to give your form to the court clerk for filing in the official court record. You will probably have to pay a small filing fee for your motion for installment payments. The clerk will stamp your motion and set a date for a hearing. Ask the clerk to make you a copy of your filed motion before you leave and write down your court date. The clerk will send a notice of the hearing date to your creditor.

3. Show up for the hearing.

You go to court to ask the Judge to let you make payments that you can afford. Make sure that you bring your pay stubs, evidence of your expenses (like utility bills, mortgage documents, or leases), and tax returns. Be prepared to talk to the Judge about your income, expenses, and any other people that you support. The Judge will also want to know why you can't pay the whole amount that you owe and how much you think you can pay each week or month. Don't offer to pay more than you are **sure** that you can afford. The person that you

owe the money to may ask the Judge to make you pay more. The Judge will listen to both of you and will decide how much you will pay.

What if an emergency keeps you from going to court? You **MUST** call the clerk's office **BEFORE** the time for the hearing to get a new court date. The earlier you can do this, the better.

4. Making your payments.

Payments are made to the court clerk. You **must** make your payments on time and in the full amount as ordered by the Judge. You should pay by check or by money order. You should put your court docket number on your payments to make sure that they are applied correctly. Make sure that you get a receipt for each payment.

If you miss a payment or don't pay the full amount, your installment order will no longer be in effect. Your creditor will be able to garnish your wages again. Sometimes an installment order can be reinstated if you can show that your payments were behind due to something beyond your control. These circumstances are **very** rare.

What if too much money was garnished from my wages?

If you think too much money was taken from your wages through a garnishment, you can file a paper with the court called a "Motion to Quash". This motion can stop or reduce your payments to your creditor. You can get the form from the court clerk's office and they will assist you in filling it out. This motion must be filed within 20 days after the garnishment. When the motion is filed with the court clerk, the clerk will give you a court date. The court will hear your motion no later than 14 days after you file it. If the garnishment was too much, the judge can stop or reduce the garnishment and order the clerk to return your money.



Note:

This is an informational brochure. It is not a substitute for legal advice and is not intended to cover all circumstances. Each case is different and needs individual legal advice. If you have a legal problem, consult a private attorney or contact your local Legal Services office.

West Tennessee Legal Services

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WEST TENNESSEE LEGAL SERVICES HAS SOME OTHER BROCHURES ON FINANCIAL ISSUES THAT YOU MIGHT FIND HELPFUL.

- Representing Yourself in General Sessions Court
- What Can I Keep After I'm Sued?
- Chapter 13 Bankruptcy – Questions and Answers
- Chapter 7 Bankruptcy – Questions and Answers
- Debt Collectors Bugging You?