



THE ENFORCER

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Why Was My Paycheck Only For One Dollar?

Practitioners regularly prepare Uniform Support Orders which provide for the payment of current support and arrearages. Many fail to recognize the dictates of 15 USC §1673, entitled Restrictions on Garnishment. It limits the amount which may be attached from a support payer's earnings for any work week. Those limits vary based on whether the debt is civil or for support, whether the payer is married and currently paying support and how long he/she has been in arrears.

So why is this important? Due to federal restrictions, even if a Family Court were to order a support payment, it still must comply with §1673. It provides in part:

No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.

Therefore, a support order in violation of §1673 is not enforceable due to the federal restriction. Also, many practitioners (and the Friend of the Court) simply limit the support to fifty (50%) of the payer's wages because they are unfamiliar with the restrictions.

On an initial reading of the statute, it would appear that the maximum allowable garnishment of one's weekly earnings is only twenty-five percent (25%). However, there are four exceptions that allow garnishment of more than the twenty-five percent (25%) maximum if certain conditions are met. Exceptions to the maximum allowable garnishment do not come into play until there is an order for the support of a person. This would include a spouse or dependent children.

The first exception is §1673(b)(2)(A). Under this section, when an individual is married or has a child other than the one the support order is for, the maximum garnishment of that person's earnings increases to fifty percent (50%). An example of this would when an individual is married or has dependent children and the court issues an order for alimony for a former spouse. When this occurs the person's income can be garnished for fifty percent (50%). However,

this limit does not increase when there are additional support orders. The maximum allowed to be garnished for all support orders under these circumstances remains fifty percent (50%).

The second exception is §1673(b)(2)(B). Under this section when an individual is *not* married and does *not* have another dependent child other than the one provided in the support order, the maximum garnishment increases to sixty percent (60%). An example would be when the person is single and has no other dependent children.

The first and second exceptions get further complicated when there are arrears outstanding for more than twelve (12) weeks. Then, the maximum allowable garnishment of one's income increases. When the individual is married or has a child other than the one he is supporting, the maximum garnishment of that person's earnings increases to fifty-five percent (55%). However, this is only when the person has arrears outstanding for more than twelve (12) weeks. Furthermore, if the person is *not* married and does *not* have another dependent child other than the one the support order is for and that person has arrears outstanding for more than twelve weeks the maximum garnishment of that person's earnings increases to sixty-five percent (65%).

A support order takes precedence over a nonexempt garnishment. This occurs when a person owes both a civil creditor as well as is responsible for a support order. When this occurs, the support order for the dependent child or spouse takes precedence over the creditor and if the support order absorbs the maximum allowable garnishment then the creditor would not be able to garnish any amount. *Marshall v District Court for Forty-First Dist. Of Michigan, Mount Clemens Division*, 444 F.Supp. 1110, 1117, 23 Wage & Hour Cas. (BNA) 677 (E.D. Mich, 1978).

In summary, the maximum garnishment amounts under §1673 are as follows:

- For a civil debt, (25%);
- For current support, when married or has another dependent child (not the subject of the support order), (50%);



- For current support, when single and does not another dependent child (not the subject of the support order, (60%);
- For current support and arrearages which are more than 12 weeks old, married or has another dependent child (not the subject of the support order) (55%); and
- For current support and arrearages which are more than 12 weeks old, when single and does not another dependent child (not the subject of the support order, (65%).

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