

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3316

By: Lindley

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5
6 AS INTRODUCED

7 An Act relating to garnishment; amending 12 O.S.
8 2001, Section 1174, as amended by Section 6, Chapter
9 450, O.S.L. 2004 (12 O.S. Supp. 2007, Section 1174),
10 which relates to the notice to defendant of
11 garnishment proceedings; modifying requirements of
12 notice of exempted earnings; and providing an
13 effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 12 O.S. 2001, Section 1174, as
16 amended by Section 6, Chapter 450, O.S.L. 2004 (12 O.S. Supp. 2007,
17 Section 1174), is amended to read as follows:

18 Section 1174. A. In all cases of garnishment before judgment,
19 the defendant in the principal action shall be given notice of the
20 issuance in said action of any garnishee summons, the date of
21 issuance of said summons, and the name of the garnishee.

22 B. In all cases of garnishment for the collection of child
23 support, the defendant shall be given notice as required by this
24 section.

1 C. In all cases of ~~postjudgment~~ garnishment, the court clerk
2 shall attach notice, in a form prescribed by the Administrative
3 Director of the Courts, with the garnishment, in the manner provided
4 by Section 1172.2 of this title that the defendant may be entitled
5 to claim an exemption for any assistance received pursuant to the
6 terms of the Federal or Oklahoma Social Security Act, which
7 includes, but is not limited to, social security benefits provided
8 for in 42 U.S.C., Section 407, and other exemptions that may be
9 available to the defendant, and that any such claim should be filed
10 with the court clerk within five (5) days from receipt of notice in
11 a form prescribed by the Administrative Director of the Courts,
12 requesting a hearing as to the status of any assets which the
13 defendant asserts are exempt. The notice that the defendant may be
14 entitled to claim an exemption for any assistance received pursuant
15 to the terms of the Federal or Oklahoma Social Security Act shall
16 state the exemption in bold letters before any subsequent exemptions
17 are listed in the notice. Any proceeding to claim an exemption
18 initiated subsequent to five (5) days after receipt of notice shall
19 be by motion unless otherwise agreed by the parties.

20 D. Said notification may be accomplished by:

21 1. Serving a copy of the garnishee summons on the defendant or
22 on his attorney of record in the manner provided for the service of
23 summons; or
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- 1 2. Sending the notice or a copy of the garnishee summons to the
2 defendant or his attorney of record by registered or certified mail
3 with return receipt requested, which receipt shall be filed in the
4 action; or
- 5 3. Attaching the notice on the summons issued in the principal
6 action prior to its service; or
- 7 4. Including the notice in the publication notice when service
8 in the principal action is by publication; or
- 9 5. Publication one time in a newspaper of general circulation
10 in the county in which the action is filed at least five (5) days
11 prior to the date on which the garnishee's answer is due if the
12 defendant is a nonresident or if the defendant's whereabouts are
13 unknown to plaintiff.

14 SECTION 2. This act shall become effective November 1, 2008.

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16 51-2-9022 MMP 01/07/08

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