An Act

ENROLLED HOUSE
BILL NO. 3104

By: Caldwell of the House

and

Newberry of the Senate

An Act relating to civil procedure; amending 12 O.S. 2011, Sections 1171 and 1190, which relate to garnishment; providing for good faith belief; making language gender neutral; specifying garnishments for which a garnishee may deduct fee for costs incurred in answering; requiring judgment creditor to pay garnishee directly for costs in answering; providing that certain fees be taxed and collected as costs; and providing an effective date.

SUBJECT: Garnishment

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

SECTION 1. AMENDATORY 12 O.S. 2011, Section 1171, is amended to read as follows:

Section 1171. A. Any creditor shall be entitled to proceed by garnishment in any court having jurisdiction against any person ~~who shall~~ whom the creditor, in good faith, believes to be indebted to the creditor's debtor or has ~~any property in his~~ possession or ~~under his~~ control of any property belonging to such creditor's debtor, in the cases, upon the conditions, and in the manner described by law.

B. Subject to the limitations and exceptions otherwise provided by law, there shall be two classes of garnishments:

1. Prejudgment garnishments, which shall consist only of general garnishments pursuant to Section 1173.3 of this title; and

2. Postjudgment garnishments, which shall consist of the following types of garnishments:

a. income assignment for child support pursuant to the provisions of Section 1171.2 of this title~~;~~,

b. noncontinuing earnings garnishment pursuant to Section 1173 of this title~~;~~,

c. garnishment for collection of child support pursuant to Section 1173.2 of this title~~;~~,

d. general garnishment pursuant to Section 1173.3 of this title~~;~~, and

e. continuing earnings garnishment pursuant to Section 1173.4 of this title.

SECTION 2. AMENDATORY 12 O.S. 2011, Section 1190, is amended to read as follows:

Section 1190. A. 1. A garnishee may deduct a fee of Ten Dollars ($10.00) from the funds of the ~~defendant~~ judgment debtor in the garnishee's possession as reimbursement for costs incurred in answering a garnishment issued pursuant to subparagraph a, b, c, d or e of paragraph 2 of subsection B of Section 1171 of this title, except as to garnishments set out in paragraph 2 of this subsection. If the garnishee is not indebted to the ~~defendant~~ judgment debtor and the garnishee's answer evidencing that is filed and mailed or delivered to the judgment creditor or to the judgment creditor's attorney of record, the garnishee may assess the judgment creditor a fee of Ten Dollars ($10.00) as reimbursement for such costs. Any fee paid to a garnishee pursuant to this paragraph shall be taxed and collected as costs.

2. A judgment creditor shall remit a fee of Twenty-five Dollars ($25.00) as reimbursement for costs incurred in answering a garnishment issued pursuant to subparagraph d of paragraph 2 of subsection B of Section 1171 of this title to garnishees which are federally insured depository institutions. Such fee shall be delivered to the garnishee with the garnishment summons. Any fee paid to a garnishee pursuant to this paragraph shall be taxed and collected as costs.

B. 1. In case of the trial of any issue between the judgment creditor and any garnishee, costs shall be awarded to the judgment creditor and against the garnishee, in addition to the garnishee's

liability, if the judgment creditor recovered more than the garnishee admitted by the garnishee's answer; and if the judgment creditor does not, the garnishee shall recover costs from the judgment creditor. The costs shall include a reasonable attorney fee to be taxed in favor of the prevailing party.

2. In the case of the trial to determine the amount to be recovered for due and owing child support, where any liability on the part of the garnishee is disclosed, costs shall be awarded to the judgment creditor and against the ~~defendant~~ judgment debtor, including a reasonable attorney fee.

C. In all other cases under this article not expressly provided for, the court may, in its discretion, award costs in favor of or against any party.

D. In addition to sums otherwise due pursuant to a judgment, a judgment creditor, if represented by an attorney, shall be entitled to an attorney fee of Fifty Dollars ($50.00) for prosecuting a garnishment pursuant to subparagraphs b, c~~,~~ and d of paragraph 2 of subsection B of Section 1171 of this title, and an attorney fee of One Hundred Dollars ($100.00) for prosecuting a garnishment pursuant to subparagraph e of paragraph 2 of subsection B of Section 1171 of this title, not to exceed a total of Two Hundred Dollars ($200.00) in any calendar year.

SECTION 3. This act shall become effective November 1, 2016.

Passed the House of Representatives the 28th day of April, 2016.

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Presiding Officer of the House
of Representatives

Passed the Senate the 13th day of April, 2016.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____