

Approved March 4, 1986
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m./~~p.m.~~ on February 19, 1986 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~ Senators Frey, Hoferer, Burke, Feleciano, Gaines, Langworthy, Parrish, Talkington, Winter and Yost.

Committee staff present:

Mary Sue Hack, Revisor of Statutes
Mike Heim, Legislative Research Department

Conferees appearing before the committee:

Jim Turner, Kansas League of Savings Institutions, Topeka
Lowell Richardson, Mid-Kansas Federal Savings and Loan, Wichita
Marvin C. Umholtz, Credit Union League, Topeka
James Maag, Kansas Bankers Association, Topeka
Jim Robertson, Social and Rehabilitation Services
Walter Scott, Topeka Attorney
Ron Smith, Kansas Bar Association
Donna Voth, Administrative Assistant to Senator Johnston

Senate Bill 556 - Garnishment order; fee paid to financial institution.

Jim Turner stated the bill was requested by his organization and the Kansas Bankers Association because of problems created with blanket garnishment orders. Copy of his testimony is attached (See Attachment I).

Lowell Richardson said garnishment requests represent time and responsibility without any compensation given. It is a lengthy process to make certain the correct party is garnished. Funds have to be held to make sure customer does not make a withdrawal, and also, if no funds in the institution, information must be sent back to the court within 10 days or can be held liable for entire amount. Volume of garnishment requests is attached. This chart represents only Sedgwick County (See Attachment II).

Marvin Umholtz supported the bill as per attached statement (See Attachment III).

Jim Maag made a brief statement supporting the concept of a fee. His concern was the time involved for which he felt should be compensated (See Attachment IV).

Jim Robertson, who was not strongly pro or con, pointed out the extra expense to Social and Rehabilitation Services in this regard (See Attachment V).

Walter Scott opposed the bill and felt there should be some type of rule to eliminate the shotgun approach method; perhaps let the Judicial Council study the problem (See Attachment VI).

Ron Smith did not have an official position, but echoed the sentiments of Walter Scott, feeling that there should be other alternatives.

Committee held a short discussion after conclusion of above testimony.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m. ~~p.m.~~ on February 19, 1986.

Senate Bill 585 - Frequency of wage garnishment.

Donna Voth read a statement from Senator Johnston, sponsor of the above bill, pointing some injustices in present law (See Attachment VII).

Walter Scott also testified in favor of Senate Bill 585 and presented a chart in regard to payroll periods and garnishments (See Attachment VIII).

Committee discussed various facets of bill and decided to give Senate Bill 585 and Senate Bill 556 more thought before voting up or down.

Senator Frey announced that on the agenda for next week there will be a meeting Tuesday over the lunch hour.

Senator Talkington made a motion and explained to the committee a bill to be introduced regarding product liability. Senator Gaines seconded his motion, and the motion carried.

A copy of a fiscal report concerning Senate Bill 585 is attached (See Attachment IX).

Meeting adjourned.

Copy of the guest list is attached (See Attachment X).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-19-86

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
MARJORIE VAN BUREN	TOPEKA	OJA
Kyle Gates	✓ ✓	✓ ✓
Dorcas Eath	✓	Sen Johnston
Clara Tolbertson	Topeka	SLS
Kevin Richardson	WICHITA	MID KANSAS FED.
Marty Kennedy	Topeka	Budget
Walt Scott	11	Self
M.C. Umbert	Topeka	KCUU
Jan Turner	Topeka	KLSI
Jim McBride	Topeka	OK 501 1001
Jim Wilson	Topeka	Office of US Attorney
Bill [unclear]	"	KCCJ
BOB GRANT	Topeka	KCCJ
Ron Smith	"	KBA
Jim [unclear]	"	Kansas Bankers Assoc
T. O. [unclear]	Topeka	KSCPA

Kansas League of Savings Institutions

JAMES R. TURNER, President • Suite 612 • 700 Kansas Ave. • Topeka, KS 66603 • 913/232-8215

February 19, 1986

TO: SENATE COMMITTEE ON JUDICIARY
FROM: JIM TURNER, KANSAS LEAGUE OF SAVINGS INSTITUTIONS
RE: S.B. 556 (GARNISHMENT ORDER FEE)

The Kansas League of Savings Institutions appreciates the opportunity to appear before the Senate Committee on Judiciary in support of the passage of S.B. 556 which would impose a non-refundable fee of \$15 for each garnishment order.

This proposal addresses the problem of blanket or shotgun garnishments of collection agencies or individuals in which little, if any, effort is made to determine whether an account exists prior to serving such an order on the financial institutions. This type of garnishment procedure creates operational problems and expense for financial institutions which we feel should be compensated.

We are accompanied today by Mr. Lowell Richardson, Senior Vice President, Mid Kansas Federal Savings Association, Wichita, who will present the League's testimony in support of S.B. 556.

J.R.T.

JRT:bw

S. Judiciary 2/19/86
A-I

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A-I

MID KANSAS FEDERAL

1985 GARNISHMENT REQUESTS

(For Funds On Deposit)

TOTAL RECEIVED	205	-	100%		
NUMBER WITH FUNDS	<u>43</u>	-	21%		
NUMBER WITHOUT FUNDS	162	-	79%		
TOTAL AMOUNT OF FUNDS REQUESTED				\$474,188.55	- 100%
TOTAL AMOUNT OF FUNDS AVAILABLE				13,433.04	- 2.8%

S. Judiciary 8/19/86
A-II



**Kansas
Credit
Union
League**

5942 S.W. 29th Street, Suite C
Topeka, Kansas 66614
(913) 273-4343

DATE: FEBRUARY 19, 1986
TO: Senate Committee on Judiciary
FROM: Marvin C. Umholtz, Vice President
Kansas Credit Union League
SUBJECT: Testimony in Support of SB 556
An act concerning civil procedure; relating to
orders of garnishment.

Thank you for this opportunity to appear in support of SB 556, a bill designed to provide for a fifteen dollar nonrefundable fee for each order of garnishment received by a financial institution.

It is our sincere hope that this fee will discourage a common practice often referred to as "shotgunning" of orders of garnishment. All too frequently, parties seeking orders of garnishment simply send out an order to all financial institutions in a multi-county area, regardless of whether they have reason to believe that the defendant has funds in the financial institution.

Credit unions and other financial institutions must take the staff time and expense to respond to each order of garnishment received. This time and money could be better used by the credit union to provide personal financial services to its members.

The Kansas Credit Union League is a statewide association representing over 95% of the 165 state-chartered and 46 federally-chartered credit unions located in Kansas. Credit unions are non-profit financial cooperatives chartered under State or federal law which are owned by the people who save and borrow there. Kansas credit unions serve the personal financial needs of over 460,000 individual credit union members and have almost \$1 billion in combined assets.

I appreciate having this opportunity to present our position in support of SB 556 to the Committee. I welcome any questions Committee members may have on this issue.

Marvin C. Umholtz *MCU*
Vice President
Credit Union Development



**Kansas
Credit
Union
League**

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Marvin C. Umholtz *MCU*
Vice President
Credit Union Development



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

February 19, 1986

TO: Senate Committee on Judiciary

RE: SB 556 - Establishment of a garnishment order fee

Mr. Chairman and members of the Committee:

Thank you for the opportunity to appear before the committee in support of SB 556. Many Kansas banks have expressed their concern to us about this inordinate amount of time their personnel must spend processing garnishment orders. One bank has done an in-house analysis showing that each order requires a full hour of staff work. In many of the urban banks where large numbers of garnishment orders are received, this adds up to a significant personnel expense for the bank. Thus, the bank is presently performing a service of which the cost--in terms of personnel time--must be absorbed in other service fees charged by the bank since it is currently not possible to charge a fee for preparing an answer to a garnishment order. This obviously creates an inequity for other customers of the bank. We believe SB 556 is a much fairer way to handle costs associated with the handling of garnishment orders. In addition, we believe it might discourage the filing of unnecessary or "blanket" orders in many of the larger communities.

We appreciate the committee's consideration for this important matter. We respectfully request that the committee recommend SB 556 favorably for passage.

A handwritten signature in black ink, appearing to read "James S. Maag", with a long horizontal line extending to the right.

James S. Maag
Director of Research

JSM/ljs

S. Judiciary 2/19/86
A-IV

Testimony Regarding S.B. 556

Submitted by: J.A. Robertson
Senior Legal Counsel
Department of Social and Rehabilitation Services

The Department of Social and Rehabilitation Services neither supports nor opposes S.B. 556. However, we do wish to submit the following information for the committee's consideration:

- (1) The Kansas Child Support Enforcement Unit expects to file approximately 1,000 garnishments naming financial institutions as garnishee during 1986. Consequently, the cost to the state would approach \$15,000 plus the cost to the Department of Administration for processing individual vouchers (\$5 each for a total of \$5,000).
- (2) The imposition of an "up-front" fee would result in a 2-3 week delay in the collection of support by state agencies because of the time it takes for the Department of Administration to process a voucher.
- (3) The fee to employers and other payors of income for processing income withholding orders pursuant to Chapter 23 of the Kansas Statutes Annotated was limited by the legislature last year to \$5 per withholding with a cap of \$10 per month. In our opinion, the processing of an income withholding order is more complex than processing a garnishment. If the legislature provides for a \$15 garnishment fee to be paid to financial institutions, it will most likely open the door to fees being charged by all garnishees.
- (4) The Kansas Supreme Court has limited the number of garnishments which can be filed by creditors to two per month. Consequently, the incidence of abuse of process by filing garnishments on every financial institution in a given area without specific knowledge of where a debtor has funds has been eliminated.

If this committee finds merit in the request that financial institutions receive a fee for processing garnishment, one option to the proposed amendment would be to allow the institution to retain a fee from funds of the debtor which are withheld pursuant to the order of garnishment.

S. Judiciary 2/19/86
A-V

Walter Scott

No garnishment shall issue except on good faith belief of the party seeking garnishment that the party to be served with the garnishment order has, or will have, assets of the judgment debtor. Nothing in this rule shall require affidavits or other formal proof of the good faith of the party seeking garnishment unless otherwise ordered by the court. (See Rule 185 of the Supreme Court on limitation on frequency of garnishments, effective October 2, 1980.)

3-12-82

S. Judiciary 2/19/82
A-VI

My commission expires:

(month) (day) (year)

FORMA PAUPERIS AFFIDAVIT
(See instructions page 1 of this form)

Signature of Petitioner

STATE OF _____ }
COUNTY OF _____ } SS.

I, _____, being first duly sworn upon my oath, depose and say that I have subscribed to the foregoing affidavit; that I know the contents thereof; and that the matters therein set forth are true.

Signature of Affiant

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19____.

Notary Public

My commission expires:

(month) (day) (year)

Rule 184

ANNULMENT OF CONVICTION AND EXPUNGEMENT OF RECORD PROCEDURE.

[History: Rep. effective September 14, 1978.]

Rule 185

The judge or judges of each judicial district may promulgate a rule for such district substantially as follows:

LIMITATION ON FREQUENCY OF GARNISHMENTS

Except as provided in this rule, no more than two garnishments shall be issued out of this court applicable to the same claim or claims and against the same judgment debtor in any thirty (30) day period.

A judge of this court may order an exception to this rule in any case in which the party seeking the garnishment shall in person or by attorney; (a) certify that the garnishment is not for the purpose of harassment of the debtor, and (b) state facts demonstrating to the satisfaction of the judge that there is reason to believe that the garnishee has property or credits of the debtor which are not exempt from execution.

[History: New rule effective December 24, 1980.]

State of Kansas

Senate Chamber

MICHAEL L. JOHNSTON
SENATE MINORITY LEADER
SENATOR, FOURTEENTH DISTRICT
LABETTE COUNTY AND PARTS OF
CRAWFORD, MONTGOMERY AND
NEOSHO COUNTIES
P.O. BOX A
PARSONS KANSAS 67357-0040



COMMITTEE ASSIGNMENTS
MEMBER ELECTIONS
GOVERNMENTAL ORGANIZATION
INTERSTATE COOPERATION
LEGISLATIVE BUDGET
LEGISLATIVE AND CONGRESSIONAL
APPORTIONMENT
LEGISLATIVE COORDINATING COUNCIL
WAYS AND MEANS

Office of Minority Leader

STATE CAPITOL
TOPEKA, KANSAS 66612-1565
913-296-3245

Senate Judiciary Committee

Senate Bill 585, Frequency of Wage Garnishment

February 19, 1986

Statement by Senator Michael L. Johnston

Thank you, Mr. Chairman, and members of the Committee, for affording me the opportunity to appear today.

My sponsorship of Senate Bill 585 is a result of a letter I received from a constituent who pointed out the gross injustice in the restrictions on wage garnishments in our current law.

Under our current law, a creditor is restricted to garnishing up to 25% of the earnings of a debtor once a month. However, there is no consideration given to whether those earnings are paid weekly, semi-weekly or monthly.

For example, a monthly salary of \$1,000 paid weekly results in a garnishment of \$62.50 per month (25% of \$250.00). The same salary paid monthly results in a \$250.00 garnishment per month (25% of \$1,000).

The current restriction on the frequency of garnishments works a gross injustice to both debtors and creditors. Senate

S. Judiciary 2/19/86
A - VII

Bill 585 corrects that inequity by limiting garnishment to once a pay period rather than once a month. This language is consistent with federal law which limits wage garnishment to once a pay period.

I urge your support of Senate Bill 585 which will make our wage garnishment law more equitable for both creditors and debtors.

WALTER N. SCOTT, JR.
ATTORNEY AT LAW
420 WEST 33RD
TOPEKA, KANSAS 66611

TELEPHONE OFFICE 266-4220

Based on net income after allowable deductions at \$1000.00 per month:

Monthly Payroll Period

\$1000.00	per month
\$ 250.00	held on garnishment

Semi-Monthly Payroll Period

\$500.00	semi-monthly
\$125.00	held on garnishment

Every Two Weeks Payroll Period

\$461.54	every two weeks
\$115.39	held on garnishment

Weekly Payroll Period

\$230.77	per week
\$ 57.69	held on garnishment

5. Judiciary 2/19/86
A - VIII



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612

(913) 296-2256

February 17, 1986

To: Gary Stotts, Acting Director of the Budget
From: Jerry Sloan, Budget and Fiscal Officer
Re: Senate Bill No. 585

This bill would amend garnishment procedure to allow garnishments once a pay period instead of the current once a month. This bill would have a fiscal impact on the judicial branch.

Many wage earners are paid in pay periods of less than one month which could greatly increase the number of garnishments. Most garnishments are issued on lower paid persons who are also more likely to be paid oftener than once a month.

Since garnishments are a post-judgement remedy, case filings and terminations are not helpful in estimating fiscal impact. In a prior survey, it was estimated that statewide approximately 116,000 garnishments are issued each year. While it might be overly conservative if we were to estimate an increase of 50% in the number of garnishments this would create an additional workload of 58,000 of these. It is estimated that each garnishment requires approximately one-half hour to process and the cost of postage and forms is about one dollar each. This would be an additional cost to the counties of \$58,000 while an additional 29,000 hours of staff time would be required in the district courts. Cost for additional temporary help to handle this workload would be \$171,867.

JS:myb

S. Judiciary 2/19/86
A-IX