

#39.30

2/20/73

First Supplement to Memorandum 73-17

Subject: Study 39.30 - Wage Garnishment and Related Matters

Attached is a letter commenting on the recommendations on civil arrest and wage garnishment.

The letter approves the civil arrest recommendation.

The letter suggests that there be a notice to the judgment debtor at least 30 days before any wage garnishment. The Commission has considered this suggestion a number of times and has determined to provide an increased automatic exemption (provided by means of a withholding table) instead of a pregarnishment notice. It should be recognized that wages can be garnished only if a judgment has been obtained so the debtor will have some notice that the creditor is resorting to a court action to collect his debt.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

1st supp Memo 73-17

EXHIBIT I

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February 15, 1973

Law Review Commission
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Gentlemen:

I have not been living up to my obligation to comment upon your various recommendations. I would like to comment on the "Civil Arrests" and the "Wage Garnishment and Related Matters".

I agree completely with the Civil Arrests recommendations. Out moded statutes should certainly be stricken.

With regard to the Wage Garnishment, I am basically opposed to the idea of attaching the wages of working people, and certainly your recommendation, while not going that far, does improve the situation somewhat. I do believe that there should be a requirement of notice to the judgment debtor at least 30 days in advance of any proposed garnishment so that the individual will not be caught by surprise and find himself or herself in the desperate situation of having to meet obligations without the income anticipated. That only creates more law-suits, more judgments, and more paper work for all concerned. I also think there should be a requirement for an examination of judgment debtor prior to garnishment, as this then notifies the individual that something is going to happen. Too often judgments are obtained by default because individuals served may not even understand that the nature of the papers are for garnishment. This is particularly true of individuals who may not speak English.

Sincerely,



JOHN E. THORNE

JET:mt