



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRBa1696/1  
TKK:jld/wlj/emw

**SENATE AMENDMENT 3,  
TO SENATE BILL 397**

December 21, 2017 - Offered by Senator WANGGAARD.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 12: delete lines 12 to 24 and substitute:

3 **"SECTION 3m.** 812.35 (6) of the statutes is amended to read:

4 812.35 **(6)** If the garnishee may become obligated to the debtor for earnings  
5 earned within pay periods beginning ~~within 13 weeks~~ after the date of service, but  
6 one or more earnings garnishments against the debtor have already been served on  
7 the garnishee and not terminated, the garnishee shall ~~retain the earnings~~  
8 ~~garnishment form and place the garnishment into effect the pay period after the last~~  
9 ~~of any prior earnings garnishments terminates.~~ The garnishee shall notify the  
10 debtor of the amount of the garnishment and shall notify the creditor ~~of the amount~~  
11 ~~owed on the pending garnishments~~ that one or more earnings garnishments are in  
12 effect against the debtor by the end of the 7th business day after receipt of the  
13 garnishment form under sub. (3). Unless s. 812.39 (2) or (2m) applies to the debtor,

1 the garnishee shall recalculate the amount to pay to each creditor for which an  
2 earnings garnishment remains in effect using the procedure under s. 812.39 (1). If  
3 s. 812.39 (2) or (2m) applies, the garnishee shall recalculate the amount to pay to each  
4 creditor for which an earnings garnishment remains in effect using the procedure  
5 under s. 812.39 (2) or (2m), whichever applies. After making the recalculation  
6 required under this subsection, the garnishee shall, subject to the exemption under  
7 s. 812.34 (2) and the limits under s. 812.39 (2) and (2m) on the total earnings that  
8 may be garnished, place the garnishment into effect for the pay period falling after  
9 the 7th business day after receipt of the garnishment form. If, before the earnings  
10 garnishment takes effect, the garnishee determines that it is unlikely that the  
11 garnishee will continue to be obligated to the debtor for earnings, the garnishee shall  
12 notify the creditor and court under sub. (5) within 7 business days after making that  
13 determination.”.

14 **2.** Page 3, line 11: after that line insert:

15 “**SECTION 4b.** 812.39 (1) of the statutes is renumbered 812.39 (1) (intro.) and  
16 amended to read:

17 812.39 (1) (intro.) Between 5 and 10 business days after the payday of each pay  
18 period in which the debtor’s earnings are subject to the earnings garnishment, the  
19 garnishee shall, subject to the exemption under s. 812.34 (2) and except as provided  
20 in subs. (2) and (2m), pay the creditor that portion of the debtor’s nonexempt  
21 disposable earnings to which the creditor is entitled. If the debtor’s earnings are  
22 already being garnished by one or more earnings garnishments when the garnishee  
23 is served under s. 812.35 (3) (b) by a creditor with a garnishment form to recover an

1 amount owed by that debtor, the garnishee shall, subject to the exemption under s.  
2 812.34 (2) and except as provided in subs. (2) and (2m), do all of the following:

3 **SECTION 4f.** 812.39 (1) (a) of the statutes is created to read:

4 812.39 (1) (a) Determine 20 percent of the debtor's disposable earnings.

5 **SECTION 4k.** 812.39 (1) (b) of the statutes is created to read:

6 812.39 (1) (b) Divide the quotient under par. (a) by the total number of  
7 creditors.

8 **SECTION 4p.** 812.39 (1) (c) of the statutes is created to read:

9 812.39 (1) (c) Pay each creditor the amount determined under par. (b).

10 **SECTION 4s.** 812.39 (2) of the statutes is renumbered 812.39 (2) (a) and  
11 amended to read:

12 812.39 (2) (a) Court-ordered assignments of the debtor's earnings for support  
13 or maintenance under ch. 767, regardless of the date the garnishee first receives  
14 notice of the assignment, take priority over an earnings garnishment under this  
15 subchapter. If and take priority over a garnishment to satisfy an order for restitution  
16 under s. 973.20 (1r). Except as provided in par. (b), if the debtor's earnings are subject  
17 to assignment under s. 767.75, the creditor, including a creditor entitled to an  
18 earnings garnishment to satisfy an order for restitution under s. 973.20 (1r), shall  
19 not be entitled to an amount greater than 25 percent of the debtor's disposable  
20 earnings less the amount assigned under s. 767.75. If the garnishee determines that  
21 the amount to be garnished pursuant to an order under s. 767.75 is equal to or greater  
22 than 25 percent of the debtor's disposable earnings, the garnishee shall notify the  
23 creditor and the court under s. 812.35 (5) within 7 business days after making that  
24 determination.

25 **SECTION 4w.** 812.39 (2) (b) of the statutes is created to read:

1           812.39 (2) (b) If one or more earnings garnishments are in effect for a debtor  
2 whose earnings are subject to assignment under s. 767.75, the garnishee shall, if the  
3 amount assigned under s. 767.75 is less than 25 percent of the debtor's disposable  
4 earnings, do all of the following:

5           1. Determine the difference between 25 percent of the debtor's disposable  
6 income and the sum of the following:

7           a. The amount assigned under s. 767.75.

8           b. The amount, if any, to be garnished to satisfy an order for restitution under  
9 s. 973.20 (1r).

10          2. a. If the difference determined under subd. 1. is less than 25 percent of the  
11 debtor's disposable income, divide the difference under subd. 1. by the number of  
12 creditors.

13          b. Pay each creditor the amount determined under subd. 2. a.

14          3. If the difference determined under subd. 1. is 25 percent or more of the  
15 debtor's disposable income, notify the creditor and court under s. 812.35 (5) within  
16 7 business days after making that determination.

17          **SECTION 4y.** 812.39 (2m) of the statutes is created to read:

18          812.39 (2m) (a) Court-ordered garnishment of the debtor's earnings to satisfy  
19 an order for restitution under s. 973.20 (1r), regardless of the date the garnishee first  
20 receives notice of the court-ordered garnishment, takes priority over an earnings  
21 garnishment under this subchapter. Subject to sub. (2), and except as provided in  
22 pars. (b) and (c), if the debtor's earnings are subject to garnishment under s. 973.20  
23 (1r), the creditor shall not be entitled to an amount greater than 20 percent of the  
24 debtor's disposable earnings less the amount to be garnished pursuant to court order  
25 under s. 973.20 (1r).

1 (b) If one or more earnings garnishments are in effect for a debtor who owes  
2 restitution under s. 973.20 (1r), the garnishee shall, subject to sub. (2) and except as  
3 provided in par. (c), do all of the following:

4 1. Determine the difference between 20 percent of the debtor's disposable  
5 income and the amount to be garnished to satisfy an order for restitution under s.  
6 973.20 (1r).

7 2. Divide the difference under subd. 1. by the number of creditors.

8 3. Pay each creditor the amount determined under subd. 2.

9 (c) If the garnishee determines that the amount to be garnished pursuant to  
10 court order under s. 973.20 (1r) is equal to or greater than 20 percent of the debtor's  
11 disposable earnings, the garnishee shall notify each creditor and court under s.  
12 812.35 (5) within 7 business days after making that determination.”.

13 **3.** Page 5, line 11: delete lines 11 to 18 and substitute:

14 “5. If the debtor's earnings are already being garnisheed when you receive this  
15 earnings garnishment, ~~place this earnings garnishment into effect the pay period~~  
16 ~~after the last of any prior earnings garnishments terminates.~~ Notify ~~notify~~ the  
17 debtor of the amount of the garnishment and notify the creditor of the amount owed  
18 on the pending garnishments by the end of the 7th business day after you receive  
19 these forms. ~~If there are no prior pending earnings garnishments against the~~  
20 ~~debtor's earnings,~~ Determine the amount you will pay to each creditor using the  
21 method described in the section titled “PAYING THE CREDITOR; PAYING  
22 MULTIPLE CREDITORS” and place this earnings garnishment into effect the pay  
23 period that begins at the end of the 7th business day after you receive it.”.

1           **4.** Page 6, line 10: after “CREDITOR” insert “; PAYING MULTIPLE  
2 CREDITORS”.

3           **5.** Page 6, line 13: after “pay period.” insert “If this earnings garnishment is  
4 one of 2 or more earnings garnishments issued for this debtor, before paying any  
5 creditor, first determine 20% of the debtor’s disposable earnings for the pay period  
6 and then divide that amount equally between all creditors.”.

7           **6.** Page 6, line 22: delete “and” and substitute “~~and~~”.

8           **7.** Page 6, line 23: delete “garnisheed” and substitute “garnisheed, earnings  
9 garnished to satisfy an order for restitution under s. 973.20 (1r), this wage  
10 garnishment, and all other wage garnishments in effect for this debtor”.

11           **8.** Page 6, line 23: after “disposable earnings.” insert “If this earnings  
12 garnishment is one of 2 or more earnings garnishments issued for this debtor and if  
13 25% or more of the debtor’s disposable earnings is assigned for support by court  
14 order, do not pay any part of the debtor’s earnings to any creditor. Instead, send the  
15 creditor a statement of that fact by the end of the 7th business day after you receive  
16 these forms. If this earnings garnishment is one of 2 or more earnings garnishments  
17 issued for this debtor, and if less than 25% of the debtor’s disposable earnings is  
18 assigned for support by court order, determine the amount each creditor must be paid  
19 by first determining the difference between 25% of the debtor’s disposable earnings  
20 and the amount assigned for support by court order and then dividing the difference  
21 by the number of creditors. If this earnings garnishment is one of 2 or more earnings  
22 garnishments issued for this debtor and if less than 25% of the debtor’s disposable  
23 earnings is assigned for support by court order and if this debtor’s earnings are also  
24 being garnished to satisfy an order for restitution under s. 973.20 (1r), determine the

1 amount each creditor must be paid by first determining the difference between 25%  
2 of the debtor's disposable earnings and the sum of the amount assigned for support  
3 by court order and the amount garnished to satisfy an order for restitution. Then,  
4 divide the difference by the number of creditors."

5 **9.** Page 6, line 24: after "EXTENSIONS" insert "EFFECT OF A  
6 GARNISHMENT TO SATISFY AN ORDER FOR RESTITUTION".

7 **10.** Page 7, line 1: delete "9." and substitute "9".

8 **11.** Page 7, line 3: delete "If" and substitute "If".

9 **12.** Page 7, line 7: delete "~~the party who paid it to you.~~" and substitute "the  
10 party who paid it to you earnings payable to a debtor who owes restitution under a  
11 court order are being garnished to satisfy that order for restitution, those restitution  
12 payments take priority over this earnings garnishment. If 20% or more of the  
13 debtor's disposable earnings is being garnished to satisfy an order for restitution, do  
14 not pay any part of the debtor's earnings to the creditor. Instead, send the creditor  
15 a statement of that fact by the end of the 7th business day after you receive these  
16 forms. If less than 20% of the debtor's earnings is being garnished to satisfy an order  
17 for restitution, the amount the creditor must be paid is reduced so that the total of  
18 earnings garnished for restitution and garnished under this earnings garnishment  
19 and any other earnings garnishments in effect for this debtor does not exceed 20%  
20 of the debtor's disposable earnings. If this earnings garnishment is one of 2 or more  
21 earnings garnishments issued for this debtor and if 20% or more of the debtor's  
22 disposable earnings is being garnished to satisfy an order for restitution, do not pay  
23 any part of the debtor's earnings to any creditor. Instead, send the creditor a  
24 statement of that fact by the end of the 7th business day after you receive these forms.

1 If this earnings garnishment is one of 2 or more earnings garnishments issued for  
2 this debtor, and if less than 20% of the debtor's disposable earnings is being  
3 garnished to satisfy an order for restitution, determine the amount each creditor  
4 must be paid by first determining the difference between 20% of the debtor's  
5 disposable earnings and the amount being garnished to satisfy an order for  
6 restitution and then dividing the difference by the number of creditors."

7

**(END)**