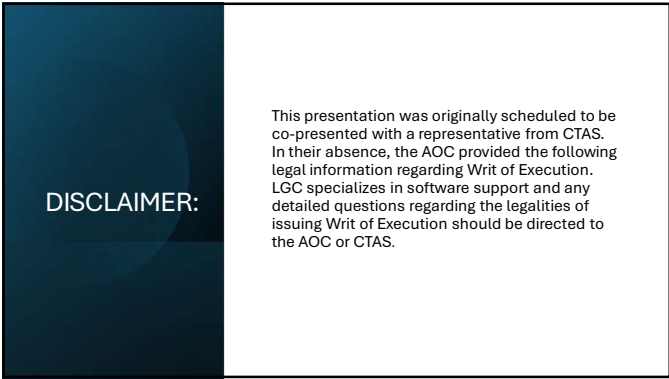
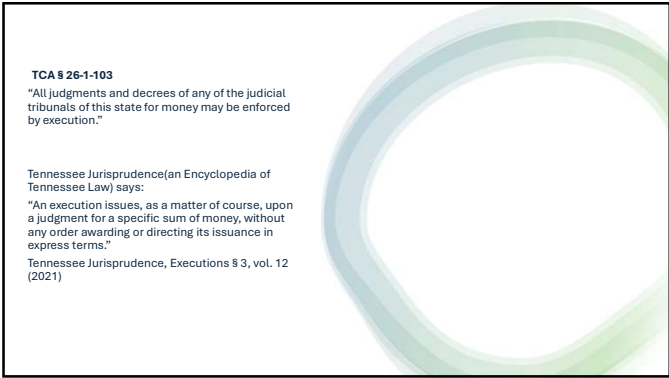




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2



3

Court Clerks are asked to issue a writ of execution on a form that will usually be in the nature of the following:

- **GARNISHMENT** (on wages) **GARNISHMENT** (on a bank account, sometimes referred to as a "**BANK LEVY**")
- **LEVY** (seizure for sale) on personal property

* TCA §29-7-101 & 26-2-202

All property under the control of the garnishee shall be liable to satisfy a judgment against a judgment debtor.

4

No clerk shall issue a WRIT OF EXECUTION, unless it provides the following required notices:

- T.C.A. §26-2-404 Notice to Judgment Debtor
- T.C.A. §26-2-203 Notice to Garnishee
- T.C.A. §26-2-216 Notice to Judgment Debtor (and Notice to Garnishee)

The form, on the AOC's website, consolidates the execution and garnishment form along with these three required notices.

<https://tncourts.gov/administration/judicial-resources/forms-documents/court-forms>

5

The Judgment creditor (or their attorney) should fill out as much of the execution form as possible.

The clerk needs to ensure ALL court costs are reflected on the form. The clerk may want to ensure that the balance due on the BILL OF COSTS, is included within the TOTAL amount wanted from the execution, in addition to the clerk's fee for issuance.

**Look for 3 things, before issuing/signing the execution form. [See TCA 26-1-203 & TRCP 62]:

- Final Judgment is, at least, 30 days old. (Clerk should count the 1st day the day after the entry/filing date of the Judgment.)
- No MOTION(s) filed, i.e. Motion to Alter or Amend, Motion for New Trial, etc.
- No satisfaction of judgment filed.

6

How does the clerk endorse & issue the execution form?

TCA§ 26-1-Part 301: Endorsement by Clerk

- "The clerk shall endorse on the execution, when issued, the date and amount of the judgment, and the items of the bill of costs, written in words, and the amounts distinctly stated in figures, and the date of issuance."

TCA§ 26-1-Part 302:

- The clerk shall also enter upon the execution docket (now, computerized rule docket entry) the date of the issuance of such execution, and to what county and officer issued; the return of the officer, with the date of such return; the dates and amounts of all moneys received into or paid out of the office thereon; the entries to be made at the time of the issuance, receipt, or payment, as the case may be.

TCA § 26-1-303: Penalties for failure to endorse or docket.

- "Any clerk neglecting § 26-1-301 or § 26-1-302 is liable to a penalty of one hundred twenty-five dollars (\$125), to be recovered by action, one-half (½) to the informer and the other one-half (½) to the state, to damages at the suit of the party aggrieved, and commits a Class C misdemeanor, for which, on conviction, such clerk shall be removed from office."

7

FEES:

\$25 STANDARD POST-JUDGMENT CLERK FEE

[TCA 8-21-401(i)(1)]

"Unless otherwise provided, court clerks in criminal and civil cases in all courts shall charge a standard post-judgment fee of twenty-five dollars (\$25.00). This fee shall be charged per occurrence and shall be charged regardless of whether judgment is enforced by garnishment, execution, levy or other process. This fee shall also apply to post-judgment interrogatories, publications, motions to set installment payments, and orders and pleas."

SHERIFFS & CONSTABLES

[TCA 8-21-901(a)(2) & (5)]

(A) For a levy of an execution on property or levy of an attachment or other process to seize property for the purpose of securing satisfaction of a judgment yet to be rendered or for executing a writ of replevin or writ of possession **\$50.00**

(B) For collecting money to satisfy a judgment, whether by execution, fieri facias, garnishment or other process, in civil cases each time collection is attempted **\$40.00**

(5) For data processing services **\$ 2.00**

8

Execution forms expire in 30 days!

All executions issuing from the Supreme Court, Court of Appeals, Circuit, Chancery, Criminal and special courts, as well as General Sessions, shall be returnable within thirty (30) days after the date of their issuance. See TCA § 26-1-401.

Officer's Return: "nulla bona", AFFIDAVIT needed.

When an execution form has been returned "nulla bona" (no leviable asset found), an ALIAS may be issue, But no ALIAS (2nd execution issued) or PLURIES (all executions issued after the 2nd) shall be issued, until the previous execution form is returned or satisfactorily accounted for by AFFIDAVIT.

See TCA 26-1-108.

"No alias or pluries execution shall issue until the previous execution is returned, or satisfactorily accounted for by affidavit."—TCA 26-1-108

9

WARNING HOLD FUNDS for 20+ Days

Wait for the 21st day after receipt of execution funds.

TCA § 26-2-408 "No sheriff or other officer shall conduct an execution sale, and no clerk shall pay out funds received pursuant to an execution or garnishment until the judgment debtor's time has expired for filing a motion to quash, or until a judicial determination has been made on such motion."

Only the first payment is required to be held. This allows the debtor to file the motion to quash, after that time expires monies can go out as receipted.

WAGE GARNISHMENTS: Effective for 6 months.

TCA§ 26-2-214: "The lien shall continue as to subsequent earnings until the total amount due upon the judgment and costs is paid or satisfied, or until the expiration of the payment period immediately prior to six (6) calendar months after service of the execution, whichever occurs first. "

10

WARNING:

TCA § 26-1-207 "Any clerk, who fails or refuses to issue execution as prescribed in this section, forfeits five hundred dollars (\$500), to be recovered by action, and is liable to the party aggrieved in damages, and commits a Class C misdemeanor, for which, upon conviction, such clerk shall be removed from office."

\$10,000 Personal Property Exemption*, plus other exemptions

Each defendant is entitled to file a personal property exemption up to \$10,000, which may include items of personalty, money & bank account funds. - TCAS 26-2-103

Other exemptions include necessary wearing apparel, family pictures, family Bible, schoolbooks, State pensions, certain retirement plan funds, certain medical/health savings, certain insurance benefits, implements, professional books, or tools of the trade(\$1,900 in value), VA benefits, Social Security benefits, unemployment compensation, Families First program benefit or local public assistance benefit, disability/illness /unemployment benefit.

THERE ARE FORMS FOR THIS!!!

See TCAS 26-2-103, 104, 105, 110, 111.

11

Debtor's Forms on AOC's Website

*Motion for Installment Payments: (Slow Pay and Supporting Affidavit of Income and Property)

*Motion to Quash Garnishment/Execution and Claim Exemption Rights

Clerk's Forms on AOC's Website

*Execution Garnishment

*Release of Garnishment

*Stay of Garnishment or Attachment

*Stay of Income Assignment

12

STAY (STOP) wage garnishment, without Court ORDER

TCA § 26-2-218 Written agreements for SLOW PAY (in installments), signed by the parties ... and filed with the clerk, shall have the same force and effect as an ORDER made by the Judge to stay the issuance, execution or return of any writ of garnishment against wages..."

JUDGMENTS: alive for 10 years

Tennessee Rules of Civil Procedure Rule 69.04

Creditor can file a MOTION TO EXTEND JUDGMENT for another 10 years. Copy of the motion shall be mailed [by the judgment creditor] to the last known address of the judgment debtor.

If no response is filed by the judgment debtor within 30 days of the filed MOTION, the MOTION shall be granted without further notice or hearing, and an ORDER extending the judgment shall be entered by the court.

If a response is filed within 30 days of the filing date of the MOTION, the MOTION should be set for hearing.

13

**Criminal & General Sessions Criminal Division
Garnishments for Court Costs**

TCA § 40-24-105 Collection of fines, costs and litigation taxes —
Installment payment plan — Suspended license — Restricted license
— Conversion to civil judgment — Settlement.

(a) Unless discharged by payment or service of imprisonment in default of a fine, a fine may be collected in the same manner as a judgment in a civil action. The trial court may also enforce all orders assessing any fine remaining in default by contempt upon a finding by the court that the defendant has the present ability to pay the fine and willfully refuses to pay. **Costs and litigation taxes due may be collected in the same manner as a judgment in a civil action,** but shall not be deemed part of the penalty, and no person shall be imprisoned under this section in default of payment of costs or litigation taxes. The following shall be the allocation formula for moneys paid into court in matters adjudicated on or after January 1, 2022: the first moneys paid in a case shall first be credited toward the payment of restitution owed to the victim, if any, and once restitution has been paid in full, the next moneys shall be credited toward payment of litigation taxes, and once litigation taxes have been paid, the next moneys shall be credited toward payment of costs; then additional moneys shall be credited toward payment of the fine

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Challenges:

Employment:

Ultimately the defendant self-reports this information, and we cannot demand an answer from them.

Defendant Population:

Population demographics can offer unique challenges when performing any collections process. Garnishment as a means of collecting past due court costs can be especially difficult if your population consists of a high number of:

- *College Students
- *Retirees/Disability Recipients
- *Seasonal Workers
- *Tourism Based Workers

The Income Formula: If a defendant already has a civil judgement, alimony, or child support, there may not be enough disposable earnings left for your garnishment.

Unintended Consequences: Our garnishment form may be the employer's first notification that an employee is a felon or that they have a criminal history.

15

Should you garnish?

*Do you have the office support to fill out, submit, and track each form?

*Do you have a population that would allow for garnishments to be effective?

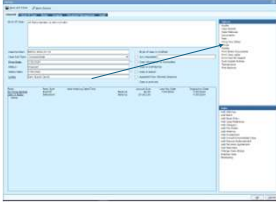
*Do you have the information you need to locate the current employer without having to issue multiple forms?

*Do your judges agree with the time frame of your garnishments?

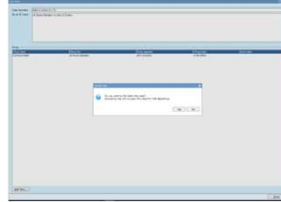
16

Adding a Wage Garnishment in TnCIS

Select Filings from the Options Menu

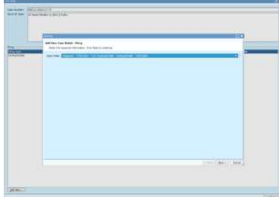


When asked if you want to re-open the case select NO

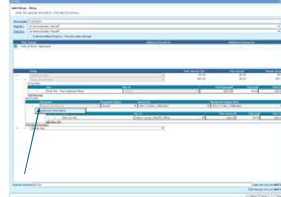


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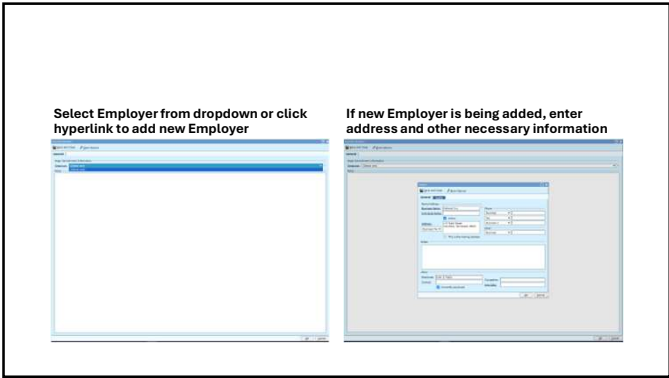
Select the Filing from the dropdown to associate this Garnishment with



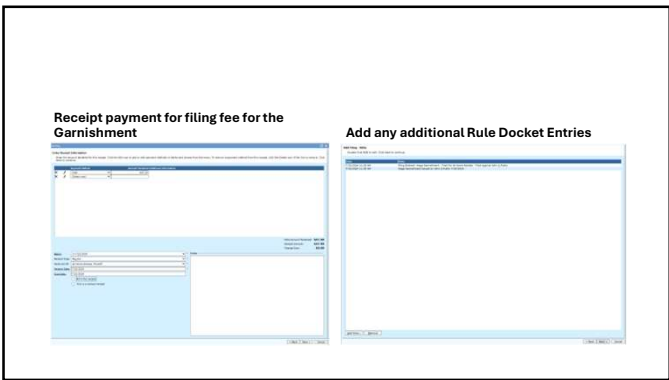
Enter Filed By/For information and click on ellipses beside Wage Garnishment to enter additional information



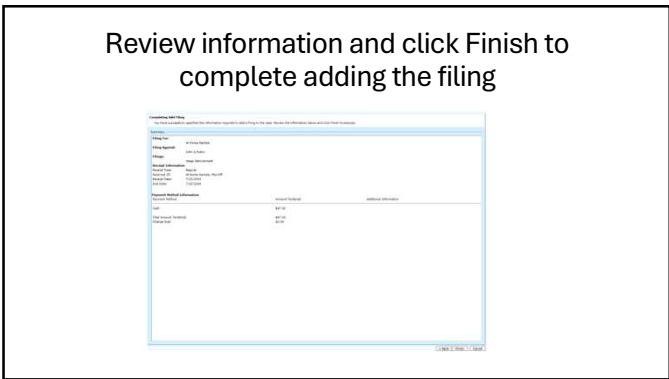
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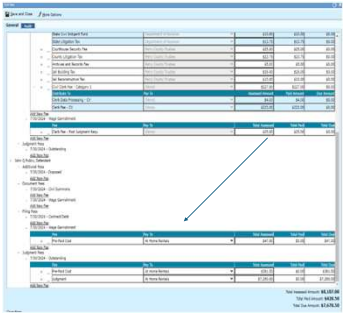
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21

****IMPORTANT****

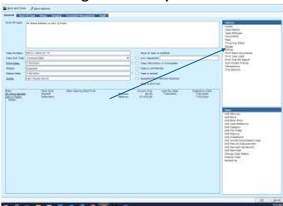
Check to make sure all fees/cost have been added under the correct party in TnCIS so that you are ready to receipt when the first payment is received.



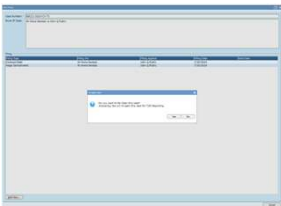
22

Adding a Levy in TnCIS

Select Filings from the Options Menu

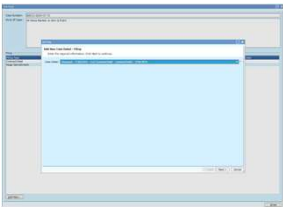


When asked if you want to re-open the case select NO

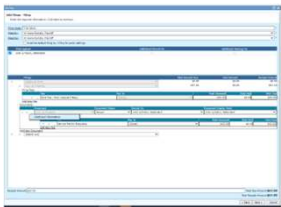


23

Select the Filing from the dropdown to associate this Levy with



Enter Filed By/For information and click on ellipses beside Levy to enter additional information



24



Changing Due Date or Placing Disbursement on Hold

From menu in TnCIS

*Financials

*Disbursements

*Select disbursement

*Click on Disbursement tab at top

