

Requested by Senator JOHNSON

**PROPOSED AMENDMENTS TO
SENATE BILL 519**

1 On page 1 of the printed bill, line 2, after “18.896” insert a period and
2 delete the rest of the line and delete line 3.

3 Delete lines 5 through 31 and delete pages 2 through 11 and insert:

4 **“SECTION 1.** ORS 18.385 is amended to read:

5 “18.385. (1) Except as provided in this section, 75 percent of the disposable
6 earnings of an individual are exempt from execution.

7 “(2) The disposable earnings of an individual are exempt from execution
8 to the extent that payment under a garnishment would result in net dispos-
9 able earnings for an individual of less than the following amounts:

10 “(a) [~~\$218~~] **\$254** for any period of one week or less;

11 “(b) [~~\$435~~] **\$509** for any two-week period;

12 “(c) [~~\$468~~] **\$545** for any half-month period;

13 “(d) [~~\$936~~] **\$1,090** for any one-month period; and

14 “(e) For any other period longer than one week, [~~\$218~~] **\$254** multiplied by
15 that fraction produced by dividing the number of days for which the earnings
16 are paid by seven. The amount calculated under this paragraph must be
17 rounded to the nearest dollar.

18 “(3) If an individual is paid for a period shorter than one week, the ex-
19 emption calculated under subsection (2) of this section may not exceed
20 [~~\$218~~] **\$254** for any one-week period.

21 “(4) An employer shall deduct from the amount of disposable earnings

1 determined to be nonexempt under subsections (1) to (3) of this section any
2 amounts withheld from the individual's earnings for the same period of time
3 under an order issued pursuant to ORS 25.378, 419B.408 or 419C.600 or ORS
4 chapter 110. The employer shall make payment under a garnishment only
5 of those amounts remaining after the deduction is made.

6 “(5) Subsections (1) to (4) of this section do not apply to:

7 “(a) Any order of a court of bankruptcy.

8 “(b) Any debt due for federal tax.

9 “(6) Subsections (2) to (4) of this section do not apply to any debt due for
10 state tax. Subsection (1) of this section does not apply to a debt due for state
11 tax if a state agency issues a special notice of garnishment under ORS 18.855
12 (6).

13 “(7) A court may not make, execute or enforce any order or process in
14 violation of this section.

15 “(8) Any waiver by an individual of the provisions of this section is void.

16 “(9) An employer may not discharge any individual because the individual
17 has had earnings garnished.

18 “**SECTION 2.** ORS 18.840 is amended to read:

19 “18.840. A wage exemption calculation form must be delivered to the
20 garnishee with each writ of garnishment. A wage exemption calculation form
21 must be in substantially the following form:

22 “ _____

23 **WAGE EXEMPTION CALCULATION**

24 (to be filled out by employers only)

25

- 26 1. Debtor's gross wages
27 for period covered by this
28 payment..... \$ _____
- 29 2. Total amount required to be
30 withheld by law for amount in Line 1

1 (Federal and state
2 withholding, Social
3 Security, etc.)..... \$ _____

4 3. Debtor's disposable wages
5 (Subtract Line 2
6 from Line 1) \$ _____

7 4. Normal exemption
8 (Enter 75 percent
9 of Line 3)..... \$ _____

10 5. Minimum exemption (check one)
11 — [\$218] **\$254** (payment of wages weekly)
12 — [\$435] **\$509** (payment of wages every
13 two weeks)
14 — [\$468] **\$545** (payment of wages half-monthly)
15 — [\$936] **\$1,090** (payment of wages monthly)
16 — \$_____ (Any other period longer
17 than one week, including partial
18 payments for less than full pay
19 period) (Multiply [\$218] **\$254** by number
20 of weeks or fraction of a week)

21 6. Wages exempt from garnishment
22 (Line 4 or 5,
23 whichever is greater)..... \$ _____

24 7. Nonexempt wages
25 (Subtract Line 6
26 from Line 3) \$ _____

27 8. Amount withheld for this pay period
28 pursuant to a support order under
29 support withholding process or under
30 another writ with priority..... \$ _____

1 9. Wages subject to garnishment
2 (Subtract Line 8
3 from Line 7) \$ _____
4

5 INSTRUCTIONS FOR WAGE
6 EXEMPTION CALCULATION FORM
7

8 If you employ the Debtor named in the writ of garnishment, you must fill
9 out and return this Wage Exemption Calculation form. A Wage Exemption
10 Calculation form must be sent with the first payment you make under the
11 writ. For the 90-day period during which the writ is effective, you must also
12 fill out and return a Wage Exemption Calculation form with a subsequent
13 payment any time the initial calculation changes. Finally, you must fill out
14 and return a Wage Exemption Calculation form with the final payment that
15 you make under the writ.
16

17 Normal wage exemption. The wage exemption calculation is based on the
18 amount of the payment you make under the writ of garnishment. The normal
19 wage exemption in Line 4 is 75 percent of the employee's disposable wages
20 in Line 3.
21

22 Minimum wage exemption. The minimum exemption in Line 5 is also
23 based on the amount of the payment you are making. The minimum ex-
24 emption is designed to ensure that an employee receives at least a certain
25 minimum amount in any one-week period. If the payment is for a one-week
26 period (without regard to whether the period is a calendar week or any other
27 seven-day period), the minimum exemption is [~~\$218~~] **\$254**. The minimum ex-
28 emption is [~~\$435~~] **\$509** if the payment is for a two-week period. If the payment
29 is for one-half of one month (i.e., the Debtor is paid twice each month), the
30 minimum exemption is [~~\$468~~] **\$545**. The minimum exemption for a monthly

1 payment is [~~\$936~~] **\$1,090**.

2 If the payment you are making is based on some period of time other than
3 one week, two weeks, half month or month, and the payment is for more than
4 one week, you must calculate the minimum exemption by multiplying [~~\$218~~]
5 **\$254** by the number of weeks covered by the paycheck, including any fraction
6 of a week. You should round the amount calculated to the nearest dollar.

7

8 Example 1: You pay Debtor A every 10 days. Each 10-day period is
9 equal to 1.429 weeks (10 divided by 7). The minimum exemption is
10 [~~\$312~~] **\$363** (~~[~~\$218~~] ~~\$254~~ × 1.429~~ rounded to the nearest dollar).

11

12 You must use this same calculation for computing the minimum ex-
13 emption when making a payment for less than a full pay period (e.g., for the
14 final payment at the end of the 90-day period covered by the writ).

15

16 Example 2: You pay Debtor A on a monthly basis. You are required
17 to make a final payment under a writ of garnishment for the wages
18 owing to Debtor A for the period beginning October 1 and ending Oc-
19 tober 15. This period is equal to 2.143 weeks (15 divided by 7). The
20 minimum exemption is [~~\$467~~] **\$544** (~~[~~\$218~~] ~~\$254~~ × 2.143~~ rounded to the
21 nearest dollar).

22

23 The amount of time actually worked by the Debtor during the period
24 covered by the paycheck does not affect the calculation of the minimum ex-
25 emption.

26

27 Example 3: You pay Debtor A on a weekly basis. Debtor A works two
28 days per week. The minimum exemption is [~~\$218~~] **\$254** for each weekly
29 payment you make for Debtor A.

30

1 If the payment you are making is based on a period of time less than one
2 week, the minimum wage exemption may not exceed [~~\$218~~] ~~\$254~~ for any
3 one-week period.

4
5 If you receive more than one writ of garnishment. If you receive more
6 than one writ of garnishment for the same debtor, the writs have priority
7 based on the date on which you receive them. If the full amount of wages
8 subject to garnishment for a given pay period is paid on the first writ, you
9 should not make any payment on subsequently received writs until the first
10 writ expires. In some cases, it may be necessary to make payments on two
11 or more writs for the same pay period.

12
13 Example 4. You have received two writs of garnishment for Debtor
14 A. You pay Debtor A on a monthly basis. The first writ expires on
15 October 16. The second writ will not expire until November 15. You
16 will need to prepare two wage exemption calculation forms for Debtor
17 A's October wages and make payments under both writs. The wage
18 exemption calculation form for the first writ will be for the wages at-
19 tributable to October 1 to October 15 as described in Example 2. The
20 wage exemption calculation form for the second writ will be for all
21 wages for the month of October, but the amounts withheld under the
22 first writ must be subtracted on Line 8 to determine the October wages
23 subject to garnishment under the second writ.

24 “ _____

25 **“SECTION 3.** ORS 18.845 is amended to read:

26 “18.845. A notice of exemptions form must be in substantially the form set
27 forth in this section. Nothing in the notice form described in this section is
28 intended to expand or restrict the law relating to exempt property. A deter-
29 mination as to whether property is exempt from execution, attachment and
30 garnishment must be made by reference to other law. The form provided in

1 this section may be modified to provide more information or to update the
2 notice based on subsequent changes in exemption laws.

3 “

4 NOTICE OF EXEMPT PROPERTY
5 AND INSTRUCTIONS FOR
6 CHALLENGE TO GARNISHMENT
7

8 Property belonging to you may have been taken or held in order to satisfy
9 a debt. The debt may be reflected in a judgment or in a warrant or order
10 issued by a state agency. Important legal papers are enclosed.

11 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ
12 THIS NOTICE CAREFULLY.

13 State and federal law specify that certain property may not be taken.
14 Some of the property that you may be able to get back is listed below.

15 (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever
16 of the following amounts is greater:

17 (a) 75 percent of your take-home wages; or

18 (b) [~~\$218~~] **\$254** per workweek.

19 (2) Social Security benefits.

20 (3) Supplemental Security Income (SSI).

21 (4) Public assistance (welfare).

22 (5) Unemployment benefits.

23 (6) Disability benefits (other than SSI benefits).

24 (7) Workers' compensation benefits.

25 (8) All Social Security benefits and Supplemental Security Income bene-
26 fits, and up to \$7,500 in exempt wages, retirement benefits, welfare, unem-
27 ployment benefits and disability benefits, that are held in a bank account.

28 You may attach copies of bank statements to the Challenge to Garnishment
29 form if you claim this exemption.

30 (9) Spousal support, child support or separate maintenance to the extent

1 reasonably necessary for your support or the support of any of your depen-
2 dents.

3 (10) A homestead (house, manufactured dwelling or floating home) occu-
4 pied by you, or occupied by your spouse, parent or child. Up to \$40,000 of the
5 value of the homestead is exempt. If you jointly own the homestead with
6 another person who is also liable on the debt, up to \$50,000 of the value of
7 the homestead is exempt.

8 (11) Proceeds from the sale of a homestead described in item 10, up to the
9 limits described in item 10, if you hold the proceeds for less than one year
10 and intend to use those proceeds to procure another homestead.

11 (12) Household goods, furniture, radios, a television set and utensils with
12 a combined value not to exceed \$3,000.

13 *(13) An automobile, truck, trailer or other vehicle with a value not to
14 exceed \$3,000.

15 *(14) Tools, implements, apparatus, team, harness or library that are
16 necessary to carry on your occupation, with a combined value not to exceed
17 \$5,000.

18 *(15) Books, pictures and musical instruments with a combined value not
19 to exceed \$600.

20 *(16) Wearing apparel, jewelry and other personal items with a combined
21 value not to exceed \$1,800.

22 (17) Domestic animals and poultry for family use with a combined value
23 not to exceed \$1,000 and their food for 60 days.

24 (18) Provisions and fuel for your family for 60 days.

25 (19) One rifle or shotgun and one pistol. The combined value of all
26 firearms claimed as exempt may not exceed \$1,000.

27 (20) Public or private pensions.

28 (21) Veterans' benefits and loans.

29 (22) Medical assistance benefits.

30 (23) Health insurance proceeds and disability proceeds of life insurance

1 policies.

2 (24) Cash surrender value of life insurance policies not payable to your
3 estate.

4 (25) Federal annuities.

5 (26) Other annuities to \$250 per month (excess over \$250 per month is
6 subject to the same exemption as wages).

7 (27) Professionally prescribed health aids for you or any of your depen-
8 dents.

9 *(28) Rental assistance to an elderly person allowed pursuant to ORS
10 458.375.

11 (29) Your right to receive, or property traceable to:

12 (a) An award under any crime victim reparation law.

13 (b) A payment or payments, not exceeding a total of \$10,000, on account
14 of personal bodily injury suffered by you or an individual of whom you are
15 a dependent.

16 (c) A payment in compensation of loss of future earnings of you or an
17 individual of whom you are or were a dependent, to the extent reasonably
18 necessary for your support and the support of any of your dependents.

19 (30) Amounts paid to you as an earned income tax credit under federal
20 tax law.

21 (31) Your right to the assets held in, or right to receive payments under,
22 a medical savings account or health savings account authorized under sec-
23 tion 220 or 223 of the Internal Revenue Code.

24 *(32) Interest in personal property to the value of \$400, but this cannot
25 be used to increase the amount of any other exemption.

26 (33) Equitable interests in property.

27 (34) Security deposits or prepaid rent held by a residential landlord under
28 ORS 90.300.

29 (35) If the amount shown as owing on the Debt Calculation form exceeds
30 the amount you actually owe to the creditor, the difference between the

1 amount owed and the amount shown on the Debt Calculation form.

2

3 Note: If two or more people in your household owe the claim or judgment,
4 each of them may claim the exemptions marked by an asterisk (*).

5 “

6 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD
7 SUPPORT AND SPOUSAL SUPPORT. Some property that may not other-
8 wise be taken for payment against the debt may be taken to pay for overdue
9 support. For instance, Social Security benefits, workers' compensation bene-
10 fits, unemployment benefits, veterans' benefits and pensions are normally
11 exempt, but only 50 percent of a lump sum payment of these benefits is ex-
12 empt if the debt is owed for a support obligation.

13

14 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY
15 OR PROPERTY BACK. You may seek to reclaim your exempt property by
16 doing the following:

17 (1) Fill out the Challenge to Garnishment form that you received with
18 this notice.

19 (2) Mail or deliver the Challenge to Garnishment form to the court ad-
20 ministrator at the address shown on the writ of garnishment, and mail or
21 deliver a copy of the form to the Garnishor at the address shown on the writ
22 of garnishment. If you wish to claim wages or salary as exempt, you must
23 mail or deliver the form within 120 days after you receive this notice. If you
24 wish to claim that any other money or property is exempt, or claim that the
25 property is not subject to garnishment, you must mail or deliver the form
26 within 30 days after you receive this notice. You have the burden of showing
27 that your challenge is made on time, so you should keep records showing
28 when the challenge was mailed or delivered.

29 (3) The law only requires that the Garnishor hold the garnished money
30 or property for 10 days before applying it to the Creditor's use. You may be

1 able to keep the property from being used by the Creditor by promptly fol-
2 lowing (1) and (2) above.

3

4 You should be prepared to explain your exemption in court. If you have
5 any questions about the garnishment or the debt, you should see an attorney.

6 **YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY**
7 **FOR THE FOLLOWING PURPOSES:**

8 (1) To claim such exemptions from garnishment as are permitted by law.

9 (2) To assert that property is not garnishable property under ORS 18.618.

10 (3) To assert that the amount specified in the writ of garnishment as be-
11 ing subject to garnishment is greater than the total amount owed.

12

13 **YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM**
14 **TO CHALLENGE THE VALIDITY OF THE DEBT.**

15 **IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH,**
16 **YOU MAY BE SUBJECT TO PENALTIES IMPOSED BY THE COURT**
17 **THAT COULD INCLUDE A FINE.** Penalties that you could be subject to
18 are listed in ORS 18.715.

19 When you file a Challenge to Garnishment form, the Garnishee may be
20 required to make all payments under the garnishment to the court, and the
21 Garnishor may be required to pay to the court all amounts received by the
22 Garnishor that are subject to the challenge to the garnishment. The
23 Garnishee and Garnishor are subject to penalties if they do not. For a com-
24 plete explanation of their responsibilities, see ORS 18.705 and 18.708.

25 “

26 **“SECTION 4.** ORS 18.896 is amended to read:

27 “18.896. (1) The challenge to execution form described in this section does
28 not expand or restrict the law relating to exempt property. A determination
29 as to whether property is exempt from attachment or execution must be made
30 by reference to other law. The form provided in this section may be modified

1 to provide more information or to update the notice based on subsequent
2 changes in exemption laws.

3 “(2) A challenge to execution form must be in substantially the following
4 form:

5 “ _____

6 _____ COURT

7 COUNTY OF _____

8

9 _____) CHALLENGE TO

10 Plaintiff,) EXECUTION

11)

12 vs.) Case No. _____

13)

14 _____)

15 Defendant.)

16

17 THIS FORM MAY BE USED BY THE DEBTOR ONLY FOR THE FOL-
18 LOWING PURPOSES:

19 (1) To claim such exemptions from execution as are permitted by law.

20 (2) To assert that the amount specified in the writ of execution as being
21 subject to execution is greater than the total amount owed.

22

23 THIS FORM MAY BE USED BY PERSONS OTHER THAN THE
24 DEBTOR ONLY TO CLAIM AN INTEREST IN THE PROPERTY THAT IS
25 TO BE SOLD ON EXECUTION.

26

27 THIS FORM MAY NOT BE USED TO CHALLENGE THE VALIDITY
28 OF THE DEBT.

29

30 I/We claim that the following described property or money is exempt from

1 execution:

2 _____
3 _____

4
5 I/We believe this property is exempt from execution because (the Notice
6 of Exempt Property at the end of this form describes most types of property
7 that you can claim as exempt from execution):

8 _____
9 _____

10
11 I am a person other than the Debtor and I have the following interest in
12 the property:

13 _____
14 _____

15
16 Name _____ Name _____
17 Signature _____ Signature _____
18 Address _____ Address _____
19 _____
20 Telephone Telephone
21 Number _____ Number _____
22 (Required) (Required)

23
24
25 **YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR**
26 **PROPERTY BACK.** You may seek to reclaim your exempt property by doing
27 the following:

- 28 (1) Fill out the Challenge to Execution form that you received with this
29 notice.
30 (2) Mail or deliver the Challenge to Execution form to the court admin-

1 istrator at the address shown on the writ of execution.

2 (3) Mail or deliver a copy of the Challenge to Execution form to the
3 judgment creditor at the address shown on the writ of execution.

4 You should be prepared to explain your exemption in court. If you have
5 any questions about the execution or the debt, you should see an attorney.

6

7 **YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY FOR**
8 **THE FOLLOWING PURPOSES:**

9 (1) To claim such exemptions from execution as are permitted by law.

10 (2) To assert that the amount specified in the writ of execution as being
11 subject to execution is greater than the total amount owed.

12

13 **YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO**
14 **CHALLENGE THE VALIDITY OF THE DEBT.**

15

16 **IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE**
17 **SUBJECT TO PENALTIES IMPOSED BY THE COURT THAT COULD IN-**
18 **CLUDE A FINE.** Penalties that you could be subject to are listed in ORS
19 18.899.

20

21 **NOTICE OF EXEMPT PROPERTY**

22

23 Property belonging to you may have been taken or held in order to satisfy
24 a debt. The debt may be reflected in a judgment or in a warrant or order
25 issued by a state agency. Important legal papers are enclosed.

26 **YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ**
27 **THIS NOTICE CAREFULLY.**

28 State and federal law specify that certain property may not be taken.
29 Some of the property that you may be able to get back is listed below.

30 (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever

1 of the following amounts is greater:

2 (a) 75 percent of your take-home wages; or

3 (b) [~~\$218~~] ~~\$254~~ per workweek.

4 (2) Social Security benefits.

5 (3) Supplemental Security Income (SSI).

6 (4) Public assistance (welfare).

7 (5) Unemployment benefits.

8 (6) Disability benefits (other than SSI benefits).

9 (7) Workers' compensation benefits.

10 (8) All Social Security benefits and Supplemental Security Income bene-
11 fits, and up to \$7,500 in exempt wages, retirement benefits, welfare, unem-
12 ployment benefits and disability benefits, that are held in a bank account.

13 (9) Spousal support, child support or separate maintenance to the extent
14 reasonably necessary for your support or the support of any of your depen-
15 dents.

16 (10) A homestead (house, manufactured dwelling or floating home) occu-
17 pied by you, or occupied by your spouse, parent or child. Up to \$40,000 of the
18 value of the homestead is exempt. If you jointly own the homestead with
19 another person who is also liable on the debt, up to \$50,000 of the value of
20 the homestead is exempt.

21 (11) Proceeds from the sale of a homestead described in item 10, up to the
22 limits described in item 10, if you hold the proceeds for less than one year
23 and intend to use those proceeds to procure another homestead.

24 (12) Household goods, furniture, radios, a television set and utensils with
25 a combined value not to exceed \$3,000.

26 *(13) An automobile, truck, trailer or other vehicle with a value not to
27 exceed \$3,000.

28 *(14) Tools, implements, apparatus, team, harness or library that are
29 necessary to carry on your occupation, with a combined value not to exceed
30 \$5,000.

1 *(15) Books, pictures and musical instruments with a combined value not
2 to exceed \$600.

3 *(16) Wearing apparel, jewelry and other personal items with a combined
4 value not to exceed \$1,800.

5 (17) Domestic animals and poultry for family use with a combined value
6 not to exceed \$1,000 and their food for 60 days.

7 (18) Provisions and fuel for your family for 60 days.

8 (19) One rifle or shotgun and one pistol. The combined value of all
9 firearms claimed as exempt may not exceed \$1,000.

10 (20) Public or private pensions.

11 (21) Veterans' benefits and loans.

12 (22) Medical assistance benefits.

13 (23) Health insurance proceeds and disability proceeds of life insurance
14 policies.

15 (24) Cash surrender value of life insurance policies not payable to your
16 estate.

17 (25) Federal annuities.

18 (26) Other annuities to \$250 per month (excess over \$250 per month is
19 subject to the same exemption as wages).

20 (27) Professionally prescribed health aids for you or any of your depen-
21 dents.

22 *(28) Rental assistance to an elderly person allowed pursuant to ORS
23 458.375.

24 *(29) Your right to receive, or property traceable to:

25 *(a) An award under any crime victim reparation law.

26 *(b) A payment or payments, not exceeding a total of \$10,000, on account
27 of personal bodily injury suffered by you or an individual of whom you are
28 a dependent.

29 *(c) A payment in compensation of loss of future earnings of you or an
30 individual of whom you are or were a dependent, to the extent reasonably

1 necessary for your support and the support of any of your dependents.

2 (30) Amounts paid to you as an earned income tax credit under federal
3 tax law.

4 (31) Your right to the assets held in, or right to receive payments under,
5 a medical savings account or health savings account authorized under sec-
6 tion 220 or 223 of the Internal Revenue Code.

7 (32) Interest in personal property to the value of \$400, but this cannot be
8 used to increase the amount of any other exemption.

9 (33) Equitable interests in property.

10 Note: If two or more people in your household owe the claim or judgment,
11 each of them may claim the exemptions marked by an asterisk (*).

12 “ _____

13 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD
14 SUPPORT AND SPOUSAL SUPPORT. Some property that may not other-
15 wise be taken for payment against the debt may be taken to pay for overdue
16 support. For instance, Social Security benefits, workers’ compensation bene-
17 fits, unemployment benefits, veterans’ benefits and pensions are normally
18 exempt, but only 50 percent of a lump sum payment of these benefits is ex-
19 empt if the debt is owed for a support obligation.

20 “ _____ ”.

21 _____