

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 261

BY SENATOR TRUMP

[Originating in the Committee on the Judiciary;

reported on February 24, 2017.]

1 A BILL to amend and reenact §38-5A-3 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §38-5B-2 of said code, all relating to suggestions of salary and wages
3 of judgment debtors engaged in private and public employment; increasing the amount of
4 salary or wages of persons engaged in private and public employment that are protected
5 from a suggestee execution from thirty times the federal minimum hourly wage then in
6 effect to fifty times the federal minimum hourly wage then in effect; requiring judgment
7 creditor to provide additional personal information about the judgment debtor including, to
8 the extent available, the present address and date of birth of the judgment debtor; and
9 making technical changes.

Be it enacted by the Legislature of West Virginia:

1 That §38-5A-3 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; and that §38-5B-2 of said code be amended and reenacted, all to read as follows:

**ARTICLE 5A. SUGGESTIONS OF SALARY AND WAGES OF PERSONS ENGAGED
IN PRIVATE EMPLOYMENT.**

**§38-5A-3. Application for suggestee execution against salary or wages; extent of lien and
continuing levy; exemption; priority among suggestee executions.**

1 (a) A judgment creditor may apply to the court in which the judgment was recovered or a
2 court having jurisdiction of the same, without notice to the judgment debtor, for a suggestee
3 execution against any money due or to become due within one year after the issuance of such
4 execution to the judgment debtor as salary or wages arising out of any private employment. If
5 satisfactory proof shall be made, by affidavit or otherwise, of such facts and the fact that the
6 amount due or to become due as salary or wages after the deduction of all state and federal taxes
7 exceeds in any week fifty times the federal minimum hourly wage then in effect, the court, if not a
8 court of record, or if a court of record the clerk thereof, shall issue a suggestee execution against
9 the salary or wages of the judgment debtor and upon presentation of such execution by the officer

10 to whom delivered for collection to the person or persons from which such salary or wages are
11 due and owing or thereafter may become due and owing to the judgment debtor, the execution
12 and the expenses thereof shall become a lien and continuing levy upon the salary or wages due
13 or to become due to the judgment debtor within one year after the issuance of the same, unless
14 sooner vacated or modified as hereinafter provided, to an amount equal to twenty percent thereof
15 and no more, but in no event shall the payments in satisfaction of such an execution reduce the
16 amount payable to the judgment debtor to an amount per week that is less than fifty times the
17 federal minimum hourly wage then in effect. Only one such execution shall be satisfied, at one
18 time, except that in the event two or more such executions have been served and satisfaction of
19 the one having priority is completed without exhausting the amount of the salary or wages then
20 due and payable that is subject to suggestion under this article the balance of such amount shall
21 be paid in satisfaction, in the order of their priority, of junior suggestee executions against such
22 salary or wages theretofore served.

23 (b) The suggestee execution by the judgment creditor provided in this section shall
24 include, to the extent possible, the present address, ~~the last four digits of the Social Security~~
25 ~~number~~ and date of birth of the judgment debtor, which information shall be made available for
26 the purpose of properly identifying the judgment debtor whose salary or wages are being levied
27 upon.

**ARTICLE 5B. SUGGESTION OF THE STATE AND POLITICAL SUBDIVISIONS;
GARNISHMENT AND SUGGESTION OF PUBLIC OFFICERS.**

**§38-5B-2. Application for suggestee execution against money from state, state agency or
political subdivision; extent of lien and continuing levy; priority among suggestee
executions.**

1 (a) A judgment creditor may apply to the court in which the judgment was recovered or a
2 court having jurisdiction of the same, without notice to the judgment debtor, for a suggestee

3 execution against any money due or to become due within one year after the issuance of the
4 same to the judgment debtor from the state, a state agency or any political subdivision of the
5 state. If satisfactory proof ~~shall be~~ is made, by affidavit or otherwise, of such facts and, where the
6 execution is sought against salary or wages, of the fact that the amount due or to become due as
7 salary or wages after the deduction of state and federal taxes exceeds in any week ~~thirty~~ fifty
8 times the federal minimum hourly wage then in effect, the court, if not a court of record, or if a
9 court of record, the clerk thereof, shall issue a suggestee execution against such money due or
10 to become due to the judgment debtor, and there shall be entered on the face thereof the day and
11 hour of issuance.

12 ~~Such~~ The execution and the expenses thereof shall, when served by the officer to whom
13 delivered for collection in the manner hereinafter provided, upon the state, a state agency or
14 political subdivision from which such money is due or may thereafter become due to the judgment
15 debtor, become a lien and continuing levy upon the sums due or to become due to the judgment
16 debtor within one year after the issuance of the ~~same~~ execution (but not to exceed twenty ~~per~~
17 ~~centum~~ percent of the salary or wages due to ~~such~~ the judgment debtor or reduce the amount
18 received by him or her per week to an amount less than ~~thirty~~ fifty times the federal minimum
19 hourly wage then in effect) unless sooner satisfied and paid, vacated or modified as hereinafter
20 provided.

21 Where more than one suggestee execution ~~shall have~~ has been issued pursuant to ~~the~~
22 ~~provisions of~~ this section against the same judgment debtor, they shall be satisfied in the order of
23 priority in which they are served upon the state, state agency or political subdivision from which
24 ~~such~~ the money is due or ~~shall~~ becomes due. For purposes of determining ~~such~~ the priority, the
25 time that an execution served by mail, as hereinafter provided, ~~shall be~~ is received, and not the
26 time of admission of service, shall control. In the case of two or more executions received in the
27 same mail, delivery priority shall be accorded the one first issued.

28 (b) The suggestee execution by the judgment creditor provided in this section shall

29 include, to the extent possible, the present address and date of birth of the judgment debtor, which
30 information shall be made available for the purpose of properly identifying the judgment debtor
31 whose salary or wages are being levied upon.