

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 261

SENATOR TRUMP, *original sponsors*

[Passed April 3, 2017; in effect 90 days from passage]

1 AN ACT to amend and reenact §38-5A-3 of the Code of West Virginia, 1931, as amended; and
2 to amend and reenact §38-5B-2 of said code, all relating to suggestions of salary and
3 wages of judgment debtors; removing the requirement of including the last four digits of
4 the Social Security number of the judgment debtor in the suggestion execution in private
5 employment; increasing the amount of salary or wages of persons from the state, a state
6 agency or any political subdivision of the state from thirty times the federal minimum hourly
7 wage then in effect to fifty times the federal minimum hourly wage then in effect; requiring
8 judgment creditor to provide personal information about the judgment debtor including, to
9 the extent available, the present address and date of birth of the judgment debtor in the
10 suggestee execution; and 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 and date of birth of the judgment debtor, which
25 information shall be made available for the purpose of properly identifying the judgment debtor
26 whose salary or wages are being levied 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 is made, by affidavit or otherwise, of such facts and, where the execution
6 is sought against salary or wages, of the fact that the amount due or to become due as salary or
7 wages after the deduction of state and federal taxes exceeds in any week fifty times the federal
8 minimum hourly wage then in effect, the court, if not a court of record, or if a court of record, the
9 clerk thereof, shall issue a suggestee execution against such money due or to become due to the
10 judgment debtor, and there shall be entered on the face thereof the day and hour of issuance.

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

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

26 (b) The suggestee execution by the judgment creditor provided in this section shall
27 include, to the extent possible, the present address and date of birth of the judgment debtor, which

Enr. CS for SB 261

28 information shall be made available for the purpose of properly identifying the judgment debtor
29 whose salary or wages are being levied upon.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2017.

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Governor