

F.A.Q. REGARDING SUSPENSION OF GARNISHMENTS

April 24, 2020 Proclamation:

WHEREAS, strict compliance with the regulatory provisions of Iowa Code Chapters 642 and 626 regarding the practice of garnishing Iowan's bank accounts, public benefits, and earnings, including potentially garnishing federal stimulus and expanded unemployment insurance payments, causes hardship for the most vulnerable Iowans and is counterproductive to the government's efforts to counteract the negative economic effects of this disaster in all counties of our state.

SECTION TWENTY-EIGHT. Pursuant to Iowa Code § 29C.6(6) and § 135.144(3), and in conjunction with the Iowa Department of Public Health, I hereby temporarily suspend the provisions of Iowa Code Chapter 642 authorizing garnishment and the provisions of Iowa Code Chapter 626 allowing execution of garnishment, except for those provisions relating to enforcement of domestic support orders.

April 27, 2020 Proclamation:

SECTION ONE HUNDRED TWO. Pursuant to Iowa Code § 29C.6(6) and § 135.144(3), and in conjunction with the Iowa Department of Public Health, I continue to temporarily suspend the provisions of Iowa Code Chapter 642 authorizing garnishment and the provisions of Iowa Code Chapter 626 allowing execution of garnishment, except for those provisions relating to enforcement of domestic support orders. Iowans should not expect that I will issue any further extensions of this suspension past May 27, 2020.

Question: What is the scope of the Governor's Order?

Answer: The plain language of the Order, when analyzed in the context of the full Order, disallows the initiation of new garnishments, but does not impact current garnishments. The Clerk of Court should not docket newly-filed praecipes initiating garnishments, and the Sheriff should not serve Notices of Garnishment and Interrogatories until May 28, 2020. Clerks and sheriffs should continue to perform their duties as detailed in those Chapters and authorized by other Code sections and Iowa common law. These duties include, but are not limited to: filing notices/interrogatories with the Clerk of Court that were served prior to April 24, 2020; serving the debtor with notices to defendant of garnishment; filing the return of service; docketing applications to condemn funds; and issuing funds to creditor when a judge executes an order to condemn funds.

Question: Should these provisions act like a stay? Or will sheriffs send money back to defendants/debtors, instead of hitting the pause button?

Answer: The Order does not mandate a stay of current garnishments. *See Answer and Analysis to Question 1.* Further, the Order neither requires nor authorizes a return of seized funds to debtors.

Question: Is there any guidance on what it means for all of 642 to be suspended? For garnishments already in progress, does the four-month execution period pick back up once the suspension is released?

Answer: The Governor did not suspend all of Chapter 642. As detailed in Question 1, she only suspended part of Chapter 642. Since the Order does not impact existing garnishments, the question regarding the four-month execution period is moot.

Question: What happens to funds that are being held with the clerk of court and the debtor had not objected? Can those funds be condemned, or do they stay with the clerk of court until the end of the suspension of the chapter?

Answer: As detailed in Question 1, the Governor's Order does not impact existing garnishments. However, this is particularly clear in cases involving funds that have been seized but not yet condemned. The right of the Court to condemn funds held by the sheriff or the clerk of court does not derive from either Chapter 642 or Chapter 626. Though the effects of condemnation of funds are found in Iowa Code § 642.10 and Iowa Code § 626.26, the process for applying and receiving condemnation of funds is based in the common law.