

VIRGINIA ACTS OF ASSEMBLY - 2026 SESSION

CHAPTER 638

An Act to amend and reenact §§ 8.01-511, 8.01-511.1, 8.01-512.3, and 8.01-512.4 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 34-4.3 and 34-4.4, relating to exemptions from garnishment; minimum protected account balance; certain benefit payments; procedure for financial institutions.

[S 301]

Approved April 13, 2026

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-511, 8.01-511.1, 8.01-512.3, and 8.01-512.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 34-4.3 and 34-4.4 as follows:

§ 8.01-511. Institution of garnishment proceedings; penalty.

A. On a suggestion by the judgment creditor that, by reason of the lien of his writ of fieri facias, there is a liability on any person other than the judgment debtor or that there is in the hands of some person in his capacity as personal representative of some decedent a sum of money to which a judgment debtor is or may be entitled as creditor or distributee of such decedent, upon which sum when determined such writ of fieri facias is a lien, a summons in the form prescribed by § 8.01-512.3 may ~~be sued out of the clerk's office~~ (i) ~~be sued out of the clerk's office~~ of the court from which an execution on the judgment is issued so long as the judgment shall remain enforceable as provided in § 8.01-251, (ii) ~~be sued out of the clerk's office~~ to which an execution issued thereon has been returned as provided in § 16.1-99 against such person, or (iii) ~~be sued out of the clerk's office~~ from which an execution issued as provided in § 16.1-278.18. If the judgment debtor does not reside in the city or county where the judgment was entered, the judgment creditor may have the case filed or docketed in the court of the city or county where the judgment debtor resides and such court may issue an execution on the judgment, provided that the judgment creditor (a) files with the court an abstract of the judgment rendered, (b) pays fees to the court in accordance with § 16.1-69.48:2 or subdivision 17 of § 17.1-275, and (c) files in both courts any release or satisfaction of judgment. The summons and the notice and claim for exemption form required pursuant to § 8.01-512.4 shall be served on the garnishee, and shall be served on the judgment debtor promptly after service on the garnishee. Service on the judgment debtor and the garnishee shall be made pursuant to subdivision 1 or 2 of § 8.01-296. When making an application for garnishment, the judgment creditor shall set forth on the suggestion for summons in garnishment the last known address of the judgment debtor, and shall furnish the clerk, if service is to be made by the sheriff, or shall furnish any other person making service with an envelope, with first-class postage attached, addressed to such address. A copy of the summons and the notice and claim for exemptions form required under § 8.01-512.4 shall be sent by the clerk to the sheriff or provided by the judgment creditor to the person making service, with the process to be served. Promptly after service on the garnishee, the person making service shall mail such envelope by first-class mail to the judgment debtor at his last known address. If the person making service is unable to serve the judgment debtor pursuant to subdivision 1 of § 8.01-296, such mailing shall satisfy the mailing requirements of subdivision 2 b of § 8.01-296. The person making service shall note on his return the date of such mailing which, with the notation "copy mailed to judgment debtor," shall be sufficient proof of the mailing of such envelope with the required copy of the summons and the notice and claim for exemption form with no examination of such contents being required nor separate certification by the clerk or judgment creditor that the appropriate documents have been so inserted. If the person making service is unable to serve the judgment debtor pursuant to subdivision 1 or 2 of § 8.01-296, such mailing shall constitute service of process on the judgment debtor. The judgment creditor shall furnish the social security number of the judgment debtor to the clerk, except as hereinafter provided.

B. The judgment creditor may require the judgment debtor to furnish his correct social security number by the use of interrogatories. However, use of such interrogatories shall not be a required condition of a judgment creditor's diligent good faith effort to secure the judgment debtor's social security number. Such remedy shall be in addition to all other lawful remedies available to the judgment creditor. Upon a representation by the judgment creditor, or his agent or attorney, that he has made a diligent good faith effort to secure the social security number of the judgment debtor and has been unable to do so, the garnishment shall be issued without the necessity for such number.

C. Except as provided herein, no summons shall be issued pursuant to this section for the garnishment of wages, salaries, commissions, or other earnings unless it: (i) is in the form prescribed by § 8.01-512.3; (ii) is directed to only one garnishee for the garnishment of only one judgment debtor; (iii) contains both the "TOTAL BALANCE DUE" and the social security number of the judgment debtor in the proper places as provided on the summons; and (iv) specifies that it is a garnishment against (a) the judgment debtor's wages,

salary, or other compensation or (b) some other debt due or property of the judgment debtor. The garnishee shall not be liable to the judgment creditor for any property not specified in the summons as provided in *clause* (iv) ~~above~~. Upon receipt of a summons not in compliance with this provision, the garnishee shall file a written answer to that effect and shall have no liability to the judgment creditor, such summons being void upon transmission of the answer. *Nothing in this subsection shall be construed to abrogate a duty of a financial institution to examine a judgment debtor's account in accordance with the provisions of §§ 34-4.3 and 34-4.4 to determine whether an automatic exemption applies.*

D. The judgment creditor shall, in the suggestion, specify the amount of interest, if any, that is claimed to be due upon the judgment, calculated to the return day of the summons. He shall also set out such credits as may have been made upon the judgment.

All costs incurred by the judgment creditor after entry of the judgment, in aid of execution of the judgment and paid to a clerk of court, sheriff, or process server are chargeable against the judgment debtor, unless such costs are chargeable against the judgment creditor pursuant to § 8.01-475. Regardless of the actual amount of the fee paid by the judgment creditor, the fee for a process server chargeable against the judgment debtor shall not exceed the fee authorized for service by the sheriff. All such previous costs chargeable against the judgment debtor may be included by the judgment creditor as judgment costs in the garnishment summons form prescribed in § 8.01-512.3. This paragraph shall not be construed to limit any cost assessed by a court as part of the judgment.

E. In addition, the suggestion shall contain an allegation that:

1. The summons is based upon a judgment upon which a prior summons has been issued but not fully satisfied; ~~or~~

2. No summons has been issued upon his suggestion against the same judgment debtor within a period of 18 months, other than under the provisions of subdivision 1; ~~or~~

3. The summons is based upon a judgment granted against a debtor upon a debt due or made for necessary food, rent or shelter, public utilities including telephone service, drugs, or medical care supplied the debtor by the judgment creditor or to one of his lawful dependents, and that it was not for luxuries or nonessentials; ~~or~~

4. The summons is based upon a judgment for a debt due the judgment creditor to refinance a lawful loan made by an authorized lending institution; ~~or~~

5. The summons is based upon a judgment on an obligation incurred as an endorser or comaker upon a lawful note; or

6. The summons is based upon a judgment for a debt or debts reaffirmed after bankruptcy.

F. Any judgment creditor who knowingly gives false information upon any such suggestion or certificate made under this chapter ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

§ 8.01-511.1. Garnishee inability to determine whether it holds property of judgment debtor.

If a summons for the garnishment of property other than wages, salaries, commissions, or other earnings does not contain sufficient or accurate information to enable the garnishee to reasonably identify the judgment debtor, the garnishee shall have no liability to the judgment creditor for failing to deliver the judgment debtor's property in response to the summons. If the summons contains either the social security number or taxpayer identification number of the judgment debtor as it appears in the records of the garnishee, or the name and address of the judgment debtor as they appear in the records of the garnishee, the summons shall be deemed to contain information sufficient to enable the garnishee to reasonably identify the judgment debtor.

If the summons contains sufficient or accurate information to enable the garnishee to reasonably identify the judgment debtor, the garnishee shall (i) answer to the summoning court and further state what the garnishee's records show as the last known address for the judgment debtor and any other information the garnishee deems relevant and (ii) send to the judgment debtor at the last known address a copy of its answer to the court. *If the garnishee is a financial institution, such garnishee, prior to sending or filing an answer to the summons, shall complete an examination of any account of the judgment debtor in accordance with the provisions of § 34-4.3 or 34-4.4 to determine whether an automatic exemption applies and to proceed accordingly after making such determination.*

No garnishee or creditor who proceeds under the terms of this statute in good faith shall be liable to any person therefor.

§ 8.01-512.3. Form of garnishment summons.

Any garnishment issued pursuant to § 8.01-511 shall be in the following form:

(a) Front side of summons:

GARNISHMENT SUMMONS

(Court Name)

(Name, address, and telephone number of judgment creditor except that when the judgment creditor's attorney's name, address, and telephone number appear on the summons, only the creditor's name shall be used.)

(Name, address, and telephone number of judgment creditor's attorney)

(Name, street address, and social security number of judgment debtor)

(Name and street address of garnishee)

Hearing Date and Time

This is a garnishment against (check only one of the designations below):

wages, salary, or other compensation.

some other debt due or property of the judgment debtor.

MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT

- Support
- 50% 55% 60% 65% (if not specified, then 50%)
- state taxes, 100%
- If none of the above is checked, then § 34-29 (a) applies.

STATEMENT

| | |
|--------------------|----------|
| Judgment Principal | \$ _____ |
| Credits | \$ _____ |
| Interest | \$ _____ |
| Judgment Costs | \$ _____ |
| Attorney's Fees | \$ _____ |
| Garnishment Costs | \$ _____ |
| TOTAL BALANCE DUE | \$ _____ |

The garnishee shall rely on this amount.

Date of Judgment

TO ANY AUTHORIZED OFFICER: You are hereby commanded to serve this summons on the judgment debtor and the garnishee.

TO THE GARNISHEE: You are hereby commanded to

- (1) File a written answer with this court, or
- (2) Deliver payment to this court, or
- (3) Appear before this court on the return date and time shown on this summons to answer the Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of writ of fieri facias, there is a liability as shown in the statement upon the garnishee.

As garnishee, you shall withhold from the judgment debtor any sums of money to which the judgment debtor is or may be entitled from you during the period between the date of service of this summons on you and the date for your appearance in court, subject to the following limitations:

- (1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown on this summons.
- (2) If the sums of money being garnished are earnings of the judgment debtor, then the provision of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall apply.
- (3) *If the garnishee is a financial institution, only the funds in a judgment debtor's account that exceed the total sum of the minimum protected account balance and protected amount, as both terms are defined in § 34-4.4, shall be subject to withholding.*

If a garnishment summons is served on an employer having 1,000 or more employees, then money to which the judgment debtor is or may be entitled from his or her employer shall be considered those wages, salaries, commissions, or other earnings which, following service on the garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail to this court.

Date of Issuance of Summons

Clerk

Date of delivery of writ of fieri facias to sheriff if different from date of issuance of this summons.

(b) A plain language interpretation of § 34-29 shall appear on the reverse side of the summons as follows: "The following statement is not the law but is an interpretation of the law which is intended to assist those who must respond to this garnishment. You may rely on this only for general guidance because the law itself is the final word. (Read the law, § 34-29 of the Code of Virginia, for a full explanation. A copy of § 34-29 is available at the clerk's office. If you do not understand the law, call a lawyer for help.)

An employer may take as much as 25 percent of an employee's disposable earnings to satisfy this garnishment. But if an employee makes the minimum wage or less for his week's earnings, the employee will ordinarily get to keep 40 times the minimum hourly wage."

But an employer may withhold a different amount of money from that above if:

- (1) The employee must pay child support or spousal support and was ordered to do so by a court procedure or other legal procedure. No more than 65 percent of an employee's earnings may be withheld for support;
- (2) Money is withheld by order of a bankruptcy court; or
- (3) Money is withheld for a tax debt.

"Disposable earnings" means the money an employee makes after taxes and after other amounts required by law to be withheld are satisfied. Earnings can be salary, hourly wages, commissions, bonuses, or

otherwise, whether paid directly to the employee or not. After those earnings are in the bank for 30 days, they are not considered earnings any more.

If an employee tries to transfer, assign, or in any way give his earnings to another person to avoid the garnishment, it will not be legal; earnings are still earnings.

An employee cannot be fired because he is garnished for one debt.

~~Financial institutions that receive an employee's paycheck by direct deposit do not have to determine~~ *The determination of what part of a person's earnings can be garnished is the responsibility of the employer, regardless of whether such earnings are paid to the employee by direct deposit.*

§ 8.01-512.4. Notice of exemptions from garnishment and lien.

No summons in garnishment shall be issued or served, nor shall any notice of lien be served on a financial institution pursuant to § 8.01-502.1, unless a notice of exemptions and claim for exemption form are attached. The notice shall contain the following statement:

~~Notice to judgment debtor~~

~~How to claim exemptions from garnishment and lien~~

~~NOTICE TO JUDGMENT DEBTOR~~

~~HOW TO CLAIM EXEMPTIONS FROM GARNISHMENT AND LIEN~~

The attached Summons in Garnishment or Notice of Lien has been issued on request of a creditor who holds a judgment against you. The Summons may cause your property or wages to be held or taken to pay the judgment.

The law provides that certain property and wages cannot be taken in garnishment. Such property is said to be exempted. *Financial institutions are required by law to exempt certain funds, federal benefit payments, and state benefit payments automatically in certain garnishment cases. These exemptions are listed below. You do not need to file a claim for exemption to receive this automatic exemption but receiving this automatic exemption in no way impairs or limits your right to claim additional exemptions as set forth in the request for hearing form below. Please be advised that just because you receive one or more of the listed federal and state benefit payments does not mean that these funds will be automatically exempted. If the debt at issue arises from a child support or spousal support obligation, the financial institution may be prohibited by law from withholding these benefit payments from garnishment. Please consult the relevant section of federal or state law of the listed benefit payment for further details.*

A summary of some of the major exemptions is set forth in the request for hearing form. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption, you should (i) fill out the claim for exemption form and (ii) deliver or mail the form to the clerk's office of this court. You have a right to a hearing within seven business days from the date you file your claim with the court. If the creditor is asking that your wages be withheld, the method of computing the amount of wages that are exempt from garnishment by law is indicated on the Summons in Garnishment attached. You do not need to file a claim for exemption to receive this exemption, but if you believe the wrong amount is being withheld you may file a claim for exemption.

On the day of the hearing, you should come to court ready to explain why your property is exempted, and you should bring any documents that may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

It may be helpful to you to seek the advice of an attorney in this matter.

~~AUTOMATIC EXEMPTIONS UNDER FEDERAL AND STATE LAW~~

~~1. Benefit payments received from a federal authority (31 C.F.R. § 212.2):~~

~~a. Social Security benefits and Supplemental Security Income (SSI) (42 U.S.C. § 407).~~

~~b. Veterans' benefits (38 U.S.C. § 5301).~~

~~c. Federal civil service retirement benefits (5 U.S.C. § 8346).~~

~~d. Railroad Retirement Board benefits (45 U.S.C. 231m(a)).~~

~~2. Minimum protected account balance (§ 34-4.3, Code of Virginia).~~

~~3. Benefit payments received from a Virginia agency or ordered by a Virginia court:~~

~~a. Unemployment compensation benefits (§ 60.2-600, Code of Virginia).~~

~~b. Public assistance payments (§ 63.2-506, Code of Virginia).~~

~~c. Workers' compensation benefits (§ 65.2-531, Code of Virginia).~~

~~d. Child support payments (§ 20-108.1, Code of Virginia).~~

~~Request for hearing garnishment/lien exemption claim~~

~~REQUEST FOR HEARING-GARNISHMENT/LIEN EXEMPTION CLAIM~~

I claim that the exemption(s) from garnishment or lien that are checked below apply in this case:

~~MAJOR EXEMPTIONS UNDER FEDERAL AND STATE LAW~~

~~___ 1. Social Security benefits and Supplemental Security Income (SSI) (42 U.S.C. § 407).~~

~~___ 2. Veterans' benefits (38 U.S.C. § 5301).~~

~~___ 3. Federal civil service retirement benefits (5 U.S.C. § 8346).~~

~~___ 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).~~

~~___ 5. Longshore and Harbor Workers' Compensation Act (33 U.S.C. § 916).~~

- ___6. Black lung benefits.
Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).
- ___7. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C. § 11109).
- ___8. Unemployment compensation benefits (§ 60.2-600, Code of Virginia). ~~This exemption may not be applicable in child support cases (§ 60.2-608, Code of Virginia).~~
- ___9. Portions or amounts of wages subject to garnishment (§ 34-29, Code of Virginia).
- ___10. Public assistance payments (§ 63.2-506, Code of Virginia).
- ___11. Homestead exemption of \$5,000, or \$10,000 if the debtor is 65 years of age or older, in cash, and, in addition, real or personal property used as the principal residence of the householder or the householder's dependents not exceeding \$50,000 in value (§ 34-4, Code of Virginia). This exemption may not be claimed in certain cases, such as payment of spousal or child support (§ 34-5, Code of Virginia).
- ___12. Property of disabled veterans — additional \$10,000 cash (§ 34-4.1, Code of Virginia).
- ___13. Workers' Compensation benefits (§ 65.2-531, Code of Virginia).
- ___14. Growing crops (§ 8.01-489, Code of Virginia).
- ___15. Benefits from group life insurance policies (§ 38.2-3339, Code of Virginia).
- ___16. Proceeds from industrial sick benefits insurance (§ 38.2-3549, Code of Virginia).
- ___17. Assignments of certain salary and wages (§ 8.01-525.10, Code of Virginia).
- ___18. Benefits for victims of crime (§ 19.2-368.12, Code of Virginia).
- ___19. Preneed funeral trusts (§ 54.1-2823, Code of Virginia).
- ___20. Certain retirement benefits (§ 34-34, Code of Virginia).
- ___21. Child support payments (§ 20-108.1, Code of Virginia).
- ___22. Support for dependent minor children (§ 34-4.2, Code of Virginia). To claim this exemption, the debtor shall attach to the claim for exemption form an affidavit that complies with the requirements of subsection B of § 34-4.2 and two items of proof showing that the debtor is entitled to this exemption.

___23. Other (describe exemption): \$_____

I request a court hearing to decide the validity of my claim. Notice of the hearing should be given me at:

_____ (address)

(address)

_____ (telephone no.)

(telephone no.)

The statements made in this request are true to the best of my knowledge and belief.

_____ (date)

(date)

_____ (signature of judgment debtor)

(signature of judgment debtor)

§ 34-4.3. Minimum account balance exempt from garnishment; garnishments.

A financial institution, as defined in § 6.2-100, shall, upon receipt of a garnishment summons, examine all accounts for which the account holder is the judgment debtor named in the summons and shall hold exempt from garnishment a minimum protected account balance of such account holder's funds in a combined total amount not to exceed \$1,000. No portion of such minimum protected account balance shall be withheld from the account holder for a purpose relating to the garnishment and such financial institution shall provide the account holder with full and customary access to such minimum protected account balance.

On April 1, 2027, and at each three-year interval ending on April 1 thereafter, the monetary limit in effect under this section immediately before such April 1 shall be adjusted to reflect the change in the Consumer Price Index for all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, for the most recent three-year period ending immediately before January 1 preceding such April 1, and rounded to the nearest \$25, the dollar amount that represents such change.

§ 34-4.4. Exemption of certain electronic benefit payments; account review.

A. For purposes of this section:

"Account review" means the process of examining deposits made into an account to determine if one or more benefit payments have been deposited during the two months immediately preceding the day before the account review commenced.

"Benefit payment" means funds received from (i) a federal authority listed in 31 C.F.R. § 212.2 or (ii) an agency of the Commonwealth or ordered by a court of the Commonwealth for (a) unemployment compensation pursuant to § 60.2-200, (b) public assistance pursuant to § 63.2-506, (c) workers' compensation pursuant to § 65.2-531, or (d) child support pursuant to § 20-108.1.

"Financial institution" means the same as that term is defined in § 6.2-100.

"Minimum protected account balance" means a combined total of not more than \$1,000 in all of a judgment debtor's accounts held by the financial institution as described in § 34-4.3.

"Protected amount" means the total sum of benefit payments deposited into a judgment debtor's account

within the two months immediately preceding the day before a financial institution conducts an account review.

B. Except as provided in subsection G, a financial institution shall, upon receipt of a garnishment summons, conduct an account review for an account of an account holder named in the summons as the judgment debtor, provided that the financial institution finds that the total amount in all of the account holder's accounts exceeds the minimum protected account balance described in § 34-4.3. If the financial institution determines pursuant to the account review that one or more benefit payments have been deposited within the two months immediately preceding the day before such account review commenced, the financial institution shall immediately calculate the protected amount and establish that such protected amount shall be automatically exempt from garnishment. Additionally, the financial institution shall ensure that the account holder has full and customary access to such protected amount and shall not withhold any portion of such protected amount pursuant to the garnishment summons.

C. Upon conducting an account review and establishing a protected amount in accordance with subsection B, the financial institution shall issue notice to the account holder that contains information consistent with the provisions of 31 C.F.R. § 212.7.

D. If an account holder named in a garnishment summons as the judgment debtor maintains more than one account at a financial institution, the financial institution shall conduct a separate account review as described in subsection B for each account and, if applicable, a separate and distinct protected amount shall be calculated and established for each account. Additionally, a financial institution shall only conduct one account review per receipt of a garnishment summons and shall not repeat an account review of the same account pursuant to the same garnishment summons. However, a financial institution shall perform a separate and new account review of each account if subsequently served with a new or different garnishment summons against the same account holder.

E. Any funds in an account exceeding the total of (i) the minimum protected account balance and (ii) the protected amount or protected amounts calculated pursuant to this section shall be subject to garnishment unless otherwise provided by state or federal law.

F. Any minimum protected account balance under § 34-4.3 or protected amount calculated pursuant to this section shall constitute an automatic exemption. No judgment debtor shall be required to either claim the exemptions under § 34-4.3 or this section or to request a hearing on such exemptions; however, nothing in this section shall be construed to prohibit or limit a judgment debtor's ability to claim other exemptions available to him by law.

G. The provisions of this section shall not apply and no financial institution shall conduct an account review if an exemption is prohibited by § 34-5 or any other relevant provision of law.

H. The provisions of this section shall apply only to benefit payments that a financial institution, based on information transmitted from the payer of such benefit payment, is able to identify as one of the types of benefit payments defined in this section.