

COURT- ORDERED WAGE ASSIGNMENTS

**REGION I
COLLECTIONS TRAINING
2008**

THE PROGRAM

- Court - ordered wage assignments are one possible collection method for courts to use.
- Collection programs can vary in terms of cost. This process is a low cost program.

THE PROGRAM

- We issue court-ordered wage assignments on probation cases that:
 - fail to appear for their violation hearing, and
 - defendants are employed.

SCAO FORM MC289 – Order for Assignment of Wages

<small>Approved SCAO</small>	ORDER FOR ASSIGNMENT OF WAGES	<small>Original - Court 1st copy - Employee 2nd copy - Employer</small>
<small>STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT</small>		<small>CASE NO.</small>
<small>Court address</small>		<small>Court telephone no.</small>
<small>In the matter of</small>	<small>Name of employee</small>	<small>Last four digits of social security no. or employee ID no.</small>
		<small>Date of birth</small>
<small>Address</small>	<small>City</small>	<small>State Zip Telephone no.</small>

IT IS ORDERED pursuant to MCL 769.1k:

1. Name _____ Address _____

employer, shall withhold from the earnings due the person named above the amount of \$ _____ per _____ effective one week after service upon the employer of a copy of this order. The employer shall indicate the case number on the withholding and shall forward the withholding to the court at _____ the above address.

2. The employer shall not use this assignment as a basis, in whole or in part, for the discharge of the employee or for any other disciplinary action against the employee.

3. Your compliance with this order is required by law.

4. This order shall remain in full force and effect until further order of the court or until the total of \$ _____ has been withheld, whichever comes first. most recent balance

Date _____ Judge _____ Bar no. _____

NOTE: Wage assignment is a transfer of the right to receive wages, ordinarily effected by means of a contract. As such, wage assignments are not within the scope of the federal wage garnishment law. For purposes of this order, however, wages have been defined based on the federal wage garnishment law. Wages are defined as earnings or compensation paid for personal services whether called wages, salary, commission, bonus, or otherwise, and can include periodic payments under a pension or retirement program. (Title II, Section 302, PL 90-321) When required, withholdings shall be determined using the calculation sheet from SCAO-Approved form MC 14 (Garnishee Disclosure).

CERTIFICATE OF MAILING

I certify that on this date copies of this order were served on the employee and employer by first-class mail to their last-known addresses.

Date _____ Signature _____

SCAO FORM MC289 – Order for Assignment of Wages
(Continued)

- Employment information is obtained by probation staff through an “Information Sheet” at:
 - Sentencing date for nonreporting defendants
 - Presentence interview for reporting defendants

- When defendants fail to appear for their probation violation hearing, the court enters an “Order for Assignment of Wages” in the amount of \$100 to \$150 per pay.

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

769.1k Imposition of fine, cost, or assessment. Sec. 1k.

- (1) If a defendant enters a plea of guilty or nolo contendere or if the court determines after a hearing or trial that the defendant is guilty, both of the following apply at the time of the sentencing or at the time entry of judgment of guilt is deferred pursuant to statute or sentencing is delayed pursuant to statute:
 - (a) The court shall impose the minimum state costs as set forth in section 1j of this chapter.
 - (b) The court may impose any or all of the following:
 - (i) Any fine.
 - (ii) Any cost in addition to the minimum state cost set forth in subdivision (a).
 - (iii) The expenses of providing legal assistance to the defendant.
 - (iv) Any assessment authorized by law.
 - (v) Reimbursement under section 1f of this chapter.
- (2) In addition to any fine, cost, or assessment imposed under subsection (1), the court may order the defendant to pay any additional costs incurred in compelling the defendant's appearance.
- (3) Subsections (1) and (2) apply even if the defendant is placed on probation, probation is revoked, or the defendant is discharged from probation.
- (4) The court may require the defendant to pay any fine, cost, or assessment ordered to be paid under this section by wage assignment.
- (5) The court may provide for the amounts imposed under this section to be collected at any time.
- (6) Except as otherwise provided by law, the court may apply payments received on behalf of a defendant that exceed the total of any fine, cost, fee, or other assessment imposed in the case to any fine, cost, fee, or assessment that the same defendant owes in any other case.

History: Add. 2005, Act 316, Eff. Jan. 1, 2006 ;-- Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007

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<http://legislature.mi.gov/doc.aspx?mcl-769-1k>

RESULTS OF OUR PROJECT

Number of Files With Current Employer Information	102
Total Wage Assignment Order Amount	\$71,140
Total Payments Received 1-1-07 to 3-11-08	\$47,121
Balances Due	\$24,019

BENEFITS

- Drivers license suspensions are cleared.
- The credibility of the court and the judicial system is enhanced.
- Cases get closed.
- Ensures compliance with financial terms of criminal sentences with the hope that monetary sanctions are a mechanism for rehabilitating offenders, teaching responsibility, or preventing further illegal activity.

COSTS

- This collection initiative has minimal costs for postage, envelopes, and paper. Our project was performed with current staff resulting in no additional salary or fringe benefits expense.
- Currently, PV workload ranges from five to ten bench warrants issued each week for defendants that fail to appear for probation violation hearings. The files are checked for employment status, employer information, and then wage assignments are ordered. We are averaging five wage assignments per week

OBSTACLES

- Self-employed defendants cannot be garnished.
- Corporate phone numbers are difficult to get at times. However, with some extra effort phone numbers were eventually found.
- Employers are protective of the employee and will not verify employment without an employee signature. When necessary, the second page of the probation order was sent with the employee's signature.

OBSERVATIONS

- Payments continue to come in while the case remains in warrant status.
- We had bond money sitting in our open bond account that was not applied to some cases. Before mailing out wage assignments, we now check the open bond list first to make sure all bond payments are posted to their cases.

OBSERVATIONS (Continued)

- A bench warrant is issued with a \$1,000 bond amount; a wage assignment is mailed to the employer for \$1,000. Employer payments are made to the court. The defendant could get arrested and have to post bond for \$1,000 even though he owes less due to employer payments. For example, we had a defendant owe \$1,400. Employer payments came in for \$1,275 when defendant was arrested. His outstanding court balance was only \$125. \$1,275 was refunded to him.

OBSERVATIONS (Continued)

- As wage assignment payments come in from the employer, if the case is paid in full and there are no other probation violation conditions, the case is closed and the warrant is recalled. However, many cases are paid in full as a result of the wage assignment employer payments, but remain open and in warrant status due to other requirements such as providing proof of anger management class or working community service hours.

CONCLUSIONS

- We have found that the revenue collected far exceeded the expenses incurred.
- \$47,121 was collected on 102 files. We have deemed this collection initiative worthwhile.

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	ORDER FOR ASSIGNMENT OF WAGES	CASE NO.
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Court address _____ Court telephone no. _____

In the matter of _____
Name of employee _____ Last four digits of social security no. or employee ID no. _____ Date of birth _____

Address _____ City _____ State _____ Zip _____ Telephone no. _____

IT IS ORDERED pursuant to MCL 769.1k:

1. _____
Name _____ Address _____

employer, shall withhold from the earnings due the person named above the amount of \$ _____ per _____ ,
effective one week after service upon the employer of a copy of this order. The employer shall indicate the case number on the
withholding and shall forward the withholding to the court at
 the above address.

2. The employer shall not use this assignment as a basis, in whole or in part, for the discharge of the employee or for any other disciplinary action against the employee.

3. Your compliance with this order is required by law.

4. This order shall remain in full force and effect until further order of the court or until the total of \$ _____ has
been withheld, whichever comes first. most recent balance

Date _____ Judge _____ Bar no. _____

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769.1k Imposition of fine, cost, or assessment.

Sec. 1k. (1) If a defendant enters a plea of guilty or nolo contendere or if the court determines after a hearing or trial that the defendant is guilty, both of the following apply at the time of the sentencing or at the time entry of judgment of guilt is deferred pursuant to statute or sentencing is delayed pursuant to statute:

(a) The court shall impose the minimum state costs as set forth in section 1j of this chapter.

(b) The court may impose any or all of the following:

(i) Any fine.

(ii) Any cost in addition to the minimum state cost set forth in subdivision (a).

(iii) The expenses of providing legal assistance to the defendant.

(iv) Any assessment authorized by law.

(v) Reimbursement under section 1f of this chapter.

(2) In addition to any fine, cost, or assessment imposed under subsection (1), the court may order the defendant to pay any additional costs incurred in compelling the defendant's appearance.

(3) Subsections (1) and (2) apply even if the defendant is placed on probation, probation is revoked, or the defendant is discharged from probation.

(4) The court may require the defendant to pay any fine, cost, or assessment ordered to be paid under this section by wage assignment.

(5) The court may provide for the amounts imposed under this section to be collected at any time.

(6) Except as otherwise provided by law, the court may apply payments received on behalf of a defendant that exceed the total of any fine, cost, fee, or other assessment imposed in the case to any fine, cost, fee, or assessment that the same defendant owes in any other case.

History: Add. 2005, Act 316, Eff. Jan. 1, 2006;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

CONTACT US

- For questions about the program, call:
Stacy Parke, Deputy Court Administrator
47TH District Court
31605 W. Eleven Mile Road
Farmington Hills, MI 48336
(248) 871-2974
sparke@fhgov.com