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SENATE FINANCE, INSURANCE, AND CONSUMER PROTECTION COMMITEE
MICHIGAN STATE SENATE

MAY 22, 2024 HEARING ON SENATE BILL 408

Chair Cavanagh, Vice Chairs Irwin and Huizenga, and Honorable Members of the Senate Finance, Insurance, and Consumer Protections Committee, thank you for the opportunity to submit public testimony in support of Senate Bill 408 (SB 408), a bill to amend 1961 PA 236, the "Revised Judicature Act of 1961."

My name is Erika Rickard and I am here today on behalf of The Pew Charitable Trusts, an independent non-profit research and public policy organization dedicated to informing the public, improving public policy, and invigorating civic life. I lead the Courts and Communities project at Pew focused on illustrating the impact of court administration on the people it serves. My testimony is informed by Pew's extensive research and technical assistance work with state courts on how debt collection lawsuits show up in their dockets and impact their communities. Since 2019, we've explored how this single case type has transformed the business of state courts[1] while also posing serious implications for the financial security[2] of millions of Americans.

In my testimony I'll share some of the findings that illustrate how debt collection lawsuits affect families in Michigan, how Michigan compares to other states, and why it's important to modernize the state's outdated garnishment laws, which have not been meaningfully updated since 1964.

Garnishments are the result of a debt collection lawsuit.

Garnishment for the purposes of SB 408 occurs when a court authorizes the seizure of a person's wages, assets, or state income tax returns to satisfy debts owed. The scope is limited to post-judgment garnishments for private debt collection, the result of a business suing an individual for money owed.

The proposed legislation before the committee draws from a data-driven report from the Michigan Supreme Court's Justice for All Commission (Commission) issued in November 2022. With Pew's assistance, the Commission sought input from a diverse set of stakeholders and conducted in-depth court data analysis to propose solutions that address the shortcomings of the current system. Here's what they found:

- **Michigan's civil courts are dominated by debt collection cases.** The most common civil case type across the entire state is a debt collector suing an individual for money owed.[3] An estimated 26% of all Michigan residents with a credit report and 53% of those living in communities of color currently have at least one

[1] The Pew Charitable Trusts, "How Debt Collectors Are Transforming the Business of State Courts" (2020), https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/how-debt-collectors-are-transforming-the-business-of-state-courts.

[2] The Aspen Institute, "A Financial Security Threat in the Courtroom: How Federal and State Policymakers Can Make Debt Collection Litigation Safer and Fairer for Everyone" (2021), https://www.aspeninstitute.org/publications/how-unpaid-bills-end-up-in-court/.

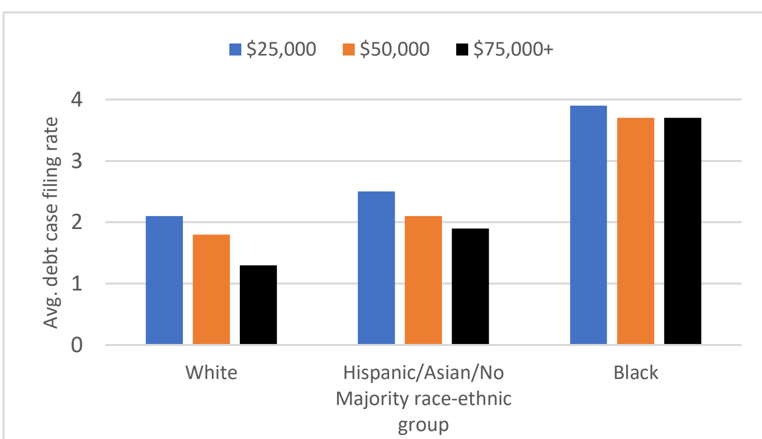
[3] Michigan Justice For All Commission, "Advancing Justice for All in Debt Collection Lawsuits" (2022), https://www.courts.michigan.gov/administration/special-initiatives/jfa/.

debt in collections.[4] Many of these debts – which can originate as past due credit card balances, medical bills, or auto loans – will make their way to Michigan District Courts where, in 2019 alone, over 200,000 debt collection cases were filed with the court. This means that, on average, a new debt case is filed every minute that Michigan courts are open.

- **Most debt collection cases end in a default judgment** or an automatic win for the plaintiff – and most judgments are enforced through garnishment.
- Similar to many other states, **70% of all debt collection lawsuits in Michigan are brought by ten large, private-sector debt collection companies,** most of which show up in other states as a top 10 filer of debt collection lawsuits. Most of these plaintiffs are national debt buyers and credit card companies who operate across the country. In fact, of the top 10 filers in Michigan, only two are based in Michigan. Of the remaining eight, seven are also top filers in Oklahoma, six are top filers in Minnesota, and four are top filers in Oregon and Utah. These states each have different debt collection practices and garnishment protections, demonstrating that debt collectors can readily adjust to regulations based on the state.
- **The typical amount of debt owed is $1,600** and three quarters of all debt claims are less than $3,700.
- **Most people being sued with a debt collection lawsuit do not have legal counsel.** This is in stark contrast to debt buying companies who are almost always represented with attorneys who specialize in this case type.
- **Black communities are disproportionately impacted.** Residents of Black communities – regardless of where they live across the state and their income level – bear the brunt of these lawsuits. Among lower-income neighborhoods, debt collection lawsuits are filed at almost *twice* the rate in predominantly Black neighborhoods, compared to predominantly White ones. Notably, as income levels increase in predominantly White neighborhoods, the rate at which debt collection lawsuits are filed in those neighborhoods declines—but that is not the case in majority Black neighborhoods, where case filing rates remain relatively similar regardless of income level. Eighty-nine percent of all judgments end in a garnishment within majority Black neighborhoods, compared to 70 percent in predominantly White neighborhoods.

Figure 1: More debt cases filed in majority-Black neighborhoods across income levels

Predicted annual average # debt cases filed per 100 residents by census tract median household income and race-ethnic majority group



[4] The Urban Institute, "Debt in America: An Interactive Map" (2022), https:// apps.urban.org/features/debt-interactive-map/?type=overall&variable=totcoll.

Michigan’s data mirrors national trends.

What’s happening in Michigan mirrors national trends. Debt collection lawsuits have grown as a share of civil dockets over the past 30 years, and now constitute the single most common type of civil court case in the nation.[5] The same holds true for Michigan.

And in states across the country, including Michigan, we see that seven in 10 of these debt cases result in an automatic win for the plaintiff.[6] This demonstrates that consumers are not meaningfully participating in their cases. In fact, the first time many consumers say they learned about their case is when their paycheck was seized or their bank account was emptied of court-enforced debt collection that can only come at the end of a court judgment. And yet in a vast majority of these cases, that court-authorized wage garnishment or asset seizure came not based on the merits of the case, but simply because the debt collector was present in the courtroom and the consumer was not.

While we see the same challenges in state after state, we are also seeing states taking the initiative to adopt important policy changes. Debt collection lawsuits are typically governed by a patchwork of state and civil court rules and it can take significant effort to examine existing debt enforcement policies, acknowledge where they miss the mark, and implement reforms. But states are doing just that through legislation and court rule updates over the past few years, including in states like Arizona, Nevada, Oregon, and Tennessee. The Michigan judiciary is beginning to join the ranks of those states examining policies and looking carefully at potential reforms. Since the Commission issued its findings on debt claims in November 2022, the Michigan Supreme Court has expressed its commitment to reviewing and taking action on these data-driven recommendations.[7]

Michigan’s outdated garnishment laws make the state an outlier.

The Justice for All Commission found that nearly 4 in 5 cases that reach a resolution end in garnishment, and that garnishments are particularly concentrated in majority-Black neighborhoods across the state. Garnishment protections are the single policy area where Michigan is most out-of-step with national reforms around debt practices. In a ranking of states’ garnishment protections conducted by the National Consumer Law Center, as the law currently stands, Michigan's protections are tied for last place. Michigan is the only state within the Great Lakes region that ranks in the bottom tier.[8]

One explanation for why Michigan falls last in garnishment protections is because garnishment laws in Michigan have not been meaningfully updated since 1964. Michigan is still operating with outdated laws that are far removed from Michiganders’ daily lives. Those laws do not account for inflation, modern technology, or the rise of business-to-consumer litigation. States like Oklahoma, Washington, and New Mexico have all modernized their garnishment laws to protect basic consumer assets like personal electronics.

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[5] P. Hannaford-Agor, S.E. Graves, and S.S. Miller, “The Landscape of Civil Litigation in State Courts” (National Center for State Courts, 2015), https://www.ncsc.org/~/media/Files/PDF/Research/CivilJusticeReport-2015.ashx.

[6] Pew, “How Debt Collectors Are Transforming the Business of State Courts” (2020), *at* n. 1.

[7] “The Michigan Supreme Court will be reviewing these recommendations and taking action in pursuit of the commission's goal of a civil justice system that is accessible to all.” Hon. Brian Zahra and Angela Tripp, “Opinion: Debt collections are clogging Michigan courts. The rules aren't fair,” Detroit Free Press (Apr. 6, 2023), https://www.freep.com/story/opinion/contributors/2023/04/06/michigan-debt-collections-rules-must-change/70067929007/.

[8] National Consumer Law Center, *No Fresh Start 2023: Will States Let Debt Collectors Push Families Into Poverty as the Cost of Necessities Soars?* (Dec. 2023). The other four states in the bottom tier are Georgia, Kentucky, New Jersey, and Utah.

Even the recently increased Earned Income Tax Credit (EITC), a law explicitly intended to help lift disadvantaged and low-income taxpayers out of poverty, is not exempt from garnishment. This method of garnishment is rarely used across the country, but in Michigan direct garnishment of state income tax returns is the most common form of garnishment, used in two-thirds of debt judgments.

There are also no protections for bank accounts – the courts can wipe a family's account to zero to satisfy a debt. Michigan is one of only 13 states without protections for a family's bank account and is out of step with all of its neighboring states.

Figure 2: Michigan offers fewer garnishment protections than its neighbors

Wages and assets that are statutorily exempt from garnishment, as of December 2023

State	Weekly Wages	Bank Account	Car	Home Value	EITC	Adjust for Inflation?
Michigan	$217.50	No protection	$1,000	$3,500	No	No
Illinois	$585	$1,000	$5,400	$15,000	Exempt	No
Indiana	$217.50	$450	$11,100	$22,750	Exempt	Yes
Minnesota	$423.60	Traceable wages exempt	$5,200	$480,000	Exempt	Yes
Ohio	$303	$550	$4,450	$161,375	Exempt	Yes
Wisconsin	$577	$5,000	$4,000	$75,000	Exempt	No

Figure 3: If SB 408 becomes law, Michigan will be in line with the rest of the country

States that have equal or greater protections than Michigan's current law vs. SB 408

	Current Michigan Law	States that protect as much or more	Garnishment Modernization Act	States that protect as much or more	Notable state comparisons
Weekly Wages	$217.50, above this amount, 25% of a paycheck can be garnished	49	$516.50, above this amount, 15% of a paycheck can be garnished	16	4 states ban wage garnishment entirely (NC, PA, SC, and TX) AZ protects $831 FL protects $750
Bank Account	$0	49	$800	37*	DE bans bank garnishment entirely NV protects $10,400 WI protects $5,000
Car	$1,000	46	$15,000	10	KS protects $20,000
Home Value	$3,500	47	$125,000	20	8 states have no cap for home values, including FL and TX NV protects $605,000

*While 37 states protect $800 or more from garnishment, this bill would make the bank account exemption "self-executing," which means that the consumer would not have to come to court to argue for this protection. Michigan would become one of 14 states with a self-executing provision.

Garnishment updates can create stability for Michigan families while paying off debts.

Under SB 408, a wage garnishment against a person will be capped at 15% of a person's paycheck instead of the existing 25% cap. This means a person working at the Michigan median wage of $875 per week ($704 after taxes) would have $176 garnished from their weekly paycheck under the current law, compared to $89.76 garnished under SB 408. The difference in these two scenarios is $86.24 each week that the person could use for buying groceries, paying rent, and affording other day-to-day needs.

In this scenario, the person being garnished will still pay off their debt in less than 5 months and the debt collector will still be collecting interest on their debt. At any point, a person being garnished can always choose to reach out to the debt collector and pay more. But by establishing a floor that allows a person to balance their debts with their everyday needs, Michigan can create a win-win outcome for debt collectors and consumers.

It's notable that states have successfully increased the assets and wages that are protected from garnishment without significant harm to credit security in their communities. For example, we analyzed Michigan compared to its neighbor states by looking at the New York Federal Reserve's credit insecurity index.[9] We found that while consumers in neighboring states enjoy broader garnishment protections than in Michigan, every neighboring state still ranks higher than Michigan on the credit insecurity index.

SB 408 will modernize debt claims policy.

The Justice For All Commission's debt collection report raised concerns about whether the garnishment protections currently provided by Michigan law diminish the trustworthiness of the courts for consumers across the state. Modernizing Michigan's garnishment laws is the start to addressing some of these concerns and represents a clear step forward in making sure Michiganders can pay back the debts they owe in a reasonable manner.

For example, the bill will prevent the increased EITC benefit from going directly to private, out-of-state companies. SB 408 will also protect more wages, bank account funds, public benefits, and basic assets from seizure by debt collectors so families can still put food on the table and keep their lights on, while still paying off their debts.

The bill will also automatically update all exemption amounts every three years to account for inflation based on the Consumer Price Index. Together, SB 408's essential updates to current law will provide consumers with the resources and information they need to understand and demystify the garnishment process and encourage them to participate in their cases.

Lasting, systemic change can only happen in the context of a multi-branch effort to advance meaningful policy reforms. The Justice For All Commission and the Michigan Supreme Court are moving forward with recommendations to improve the debt collection lawsuit process. And as they implement many procedural changes, we're appealing to the Legislature and to this Committee to modernize garnishment laws and promptly enact SB 408 into law during this legislative session. SB 408 offers reasonable, commonsense changes that can provide the people of Michigan with a more sustainable way to pay off their debts without debilitating disruptions to their daily lives. We urge this Committee to advance the legislation for floor consideration.

Thank you for this opportunity to address the Committee today on behalf of The Pew Charitable Trusts and I welcome any questions.

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[9] Id.