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Written Testimony by April Kuehnhoff and Oral Testimony by Andrew Pizor
Staff Attorneys at the National Consumer Law Center on behalf of its low-income clients

Before Committee on the Judiciary & Public Safety
In support of Bill 22-0572, The "Wage Garnishment Fairness Amendment Act of 2017"
June 7, 2018

The National Consumer Law Center[1] offers the following testimony in support of Bill 22-0572, which would amend D.C. Code Ann. § 16-572 to increase the amount of wages that are exempt from garnishment.

I. Prevalence of Debt Collection and Wage Garnishment

In 2016, 33% of Washington, D.C. residents with a credit report had at least one debt in collection listed on their credit report.[2] In predominantly nonwhite zip codes in the District of Columbia, the share with debt in collection reached 45%.[3]

Many of these alleged debts will ultimately be the subject of lawsuits. In one study, the Consumer Financial Protection Bureau found that 15% of survey respondents who had been contacted about a debt in the prior year were sued in a collection lawsuit during the prior year.[4]

Typically, the overwhelming majority of lawsuits filed on alleged consumer debts end in judgments for the creditor.[5] Judgment creditors may then use these judgments to seek to garnish

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[1] The National Consumer Law Center is a nonprofit organization specializing in consumer issues on behalf of low-income and elderly people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations, from all states who represent low-income and elderly individuals on consumer issues. As a result of our daily contact with these advocates, we have seen many examples of the damages wrought by debt collection and wage garnishment from across the nation. This testimony is presented on behalf of our low-income clients.

[2] Urban Institute, Debt in America: An Interactive Map (Apr. 2018), *available at* http://apps.urban.org/features/debt-interactive-map/.

[3] *Id.*

[4] Consumer Fin. Protection Bur., Consumer Experiences with Debt Collection: Findings from the Bureau's Survey of Consumer Views on Debt (Jan. 2017), *available at* https://files.consumerfinance.gov/f/documents/201701_Bureau_Debt-Collection-Survey-Report.pdf.

[5] *See* National Consumer Law Center, Fair Debt Collection ¶ 1.4.9.3 (9th ed. 2018), updated at www.nclc.org/library (discussing prevalence of default judgments).

the wages of judgment debtors. Nationally, in the last quarter of 2016, 2.9% of the U.S. workforce had a garnishment for debts such as student loans, consumer, or credit card debts.[6]

II. Importance of State Exemption Laws

State exemption laws are a fundamental safeguard for families. These laws are designed to protect the essentials of daily life—including shelter and a basic amount of income—from seizure by a family's creditors. Exemption laws protect debtors and their families from poverty, and preserve their ability to be productive members of society. By preserving the income and assets that debtors need to travel to their jobs and pay the rent, exemption laws also save costs that taxpayers would otherwise have to bear for services such as emergency shelter and foster care. They also deter predatory lending. Creditors are less likely to make unaffordable loans if they know they will have to rely on the debtor's ability to repay the debt, rather than seizure of the debtor's household goods or on a wage garnishment that pushes the family below the poverty line.

Despite the importance of state exemption laws, states vary widely in the income and property they protect from seizure by creditors. In the majority of states there are enormous gaps in these protections, allowing creditors to push debtors and their families into financial hopelessness. The gaps in exemption laws also give debt collectors enormous leverage. By threatening to garnish a debtor's wages, a debt collector may persuade a debtor to use the rent money to pay an old credit card bill that ought to be a much lower priority.

Exemption laws are primarily an area of state authority. Federal law requires states to protect at least a certain amount of a debtor's weekly wages from creditors: 75% of wages or 30 times the minimum wage. However, states are allowed to opt out and replace the federal exemptions with their own, and many have done so.

III. How Washington, D.C.'s Wage Exemption Provisions Compared to Other Jurisdictions in NCLC's *No Fresh Start* Report

Washington, D.C. ranks very poorly in comparison to other states in how it protects debtors and their families. In NCLC's 2013 report, *No Fresh Start: How States Let Debt Collectors Push Families Into Poverty*[7] we gave the District of Columbia the lowest possible grade for how it protects wages: an F.

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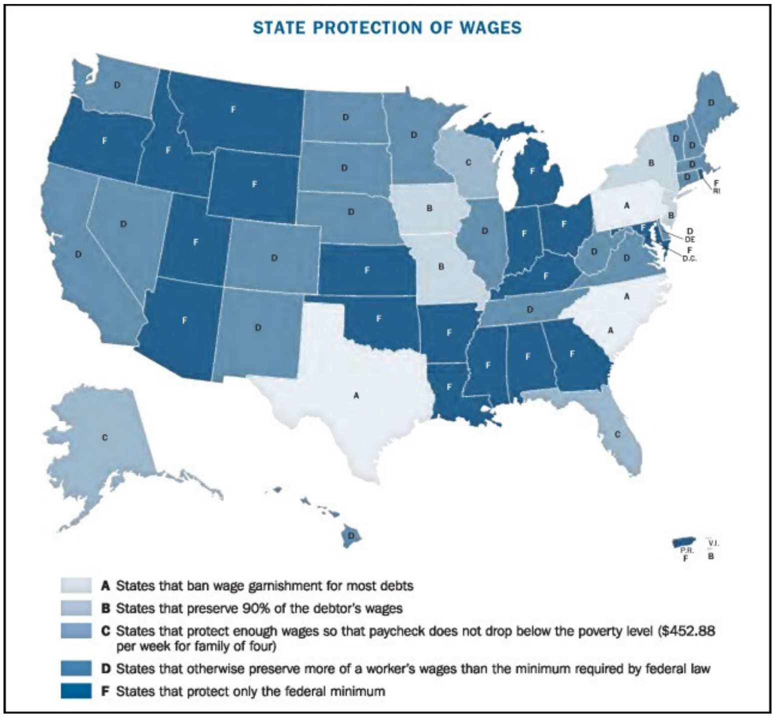
[6] ADP Research Institute, The U.S. Wage Garnishment Landscape: Through the Lens of the Employer (2017), *available at:* https://www.adp.com/tools-and-resources/adp-research-institute/research-and-trends/research-item-detail.aspx?id=04a8aaf8-564d-4937-94f0-da5fffb1a682.

[7] Carolyn Carter and Robert Hobbs, National Consumer Law Center, No Fresh Start: How States Let Debt Collectors Push Families Into Poverty (Oct. 2013), *available at* https://www.nclc.org/images/pdf/pr-reports/report-no-fresh-start.pdf.



Washington, D.C. currently provides no protection for wages beyond the federal minimum, which protects the greater of 75% of disposable earnings or 30 times the federal minimum wage. In contrast, four states - North Carolina (if supporting a family), Pennsylvania, South Carolina, and Texas - ban wage garnishment altogether for typical consumer debts. Another five states - Iowa, Missouri, New Jersey, New York, and the U.S. Virgin Islands - protect 90% of wages from garnishment. An additional 23 states provide protections that exceed the federal minimums adopted by the District of Columbia. Appendix A from the *No Fresh Start* report is attached at the end of this testimony with details regarding protection of wages in each state.

At least one jurisdiction currently has an active bill in this legislative session that would increase the amount of wages exempt from collection. In Massachusetts, S120 would exempt earnings below 90 times the minimum wage and, above that threshold, 10 percent of earnings would be subject to garnishment.[8] The bill was reported favorably by committee and referred to the Senate Ways and Means committee.[9] The current Massachusetts legislative session runs until the end of July.

IV. How Proposed Reforms Would Benefit Low-Income Consumers

Bill 22-0572 would exempt 60 times the District of Columbia minimum wage from garnishment each week. At the current minimum wage of $12.50 per hour, that amounts to $750 per week or $39,000 per year.

[8] Massachusetts S120, *available at* https://malegislature.gov/Bills/190/S120

[9] *Id.*

The chart in Appendix B considers the difference between the amount of money that would be garnishable under the current law and the proposed law. The chart looks at the rate of garnishment for those earning minimum wage.[10] Someone earning the minimum wage of $12.50 per hour can currently be subject to garnishment of approximately $5,850.[11] A minimum wage earner under the proposed law would not be subject to any garnishment.

In places with a high cost of living like Washington, D.C., families may struggle to make ends meet even if they earn above the minimum wage. For example, in 2018 the Department of Housing and Urban Development (HUD) calculated that a household of 4 people earning $35,150 or less per year is considered "extremely low income." Yet, under the current law, such a family could be subject to garnishment for up to $7,909 per year. Under the proposed law, such a family would be exempt from any garnishment.

For those who earn more than $750 per week, the proposed law would allow garnishment of only 25% of the amount that exceeds $750. As a result, low and moderate income consumers are subject to a more gradual increase in the amount of their income that is subject to garnishment. This means that a household of 4 with an annual income of $58,600, which HUD considers "very low income," would only be subject to $4,900 in garnishment under the proposed law, compared to $13,185 per year currently.

V. **Conclusion**

Currently, a garnishment order can cause havoc in the personal finances of a family that is already struggling to pay even basic expenses. For example, the median rent in Washington, D.C. for a two bedroom apartment is $1,793,[12] meaning that a family earning less than $71,724[13] per year would already be cost-burdened[14] by the rent for such an apartment. Bill 22-0572 would protect such families by increasing the amount of wages that are exempt from garnishment in recognition of the high cost of living.

Setting the rate of exemption higher will not prevent individuals who can do so from paying more. For example, a single person with no dependents may be able to pay more toward a debt than someone who is supporting multiple dependents. Nothing prevents such a debtor from entering into an agreement with the creditor to pay more than the creditor could seize from the debtor's wages. Indeed, it is often in both parties' interest to do so because it pays the debt down

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[10] The $7.25 minimum wage in Virginia and the $9.25 minimum wage in Maryland are included in addition to the District of Columbia minimum wage because a resident of the District of Columbia may be employed in one of these states at the local minimum wage.

[11] Calculations of garnishable weekly income under the current law assume that disposable income is 90% of gross.

[12] Department of Housing and Urban Development, 50th Percentile Rent Estimates FY2018, *available at*: https://www.huduser.gov/portal/datasets/50per.html#2018.

[13] 71,724 / 12 * 0.3 = $1,793

[14] According to HUD, "[f]amilies who pay more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care." Department of Housing and Urban Development, Affordable Housing, *available at* https://www.hud.gov/program_offices/comm_planning/affordablehousing/.

faster for the debtor, and it relieves the creditor of the costs and paperwork required for wage garnishment.

In summary, increasing the wage exemption will allow those who need protection to make use of it so that they can pay for basic living expenses, such as rent, food, childcare, transportation, or other necessities of daily living that may take priority over prior debts like old credit card debts. Bill 22-0572 will help protect the District of Columbia's poorest residents from being forced into deeper financial distress.

APPENDIX A
STATE PROTECTION OF WAGES

NCLC's Model Family Financial Protection Act Recommendation: **80 times federal or state minimum wage or 10% of disposable income (15% if weekly disposable income exceeds $1200)**

STATE	AMOUNT PROTECTED
"A" States Ban Wage Garnishment for Most Debts	
North Carolina	All wages exempt if supporting a family
Pennsylvania	All wages exempt for most debts
South Carolina	All wages exempt
Texas	All wages exempt
"B" States Preserve 90% of the Debtor's Wages	
Iowa	90% to 97% of wages, depending on amount of annual earnings
Missouri	90% of wages for head of family
New Jersey	90% of wages if under 250% of federal poverty level
New York	90% of wages earned in the last 60 days, or 30 times state or federal minimum wage (now $7.25)
Virgin Islands	90% of wages
"C" States Protect Enough Wages So That Paycheck Does Not Drop Below the Poverty Level ($452.88 per week for family of four)	
Alaska	$2970 per month (about $691 per week, which is 95 times the federal minimum wage), if debtor's income is sole support of household
Florida	First $750 is exempt if wage earner is head of family
Wisconsin	Federal poverty amount, based on family size, is exempt
"D" States Preserve More of a Worker's Wages than the Minimum Required by Federal Law	
California	40 times state minimum wage for individual; more if debtor proves higher amount is needed
Colorado	30 times state minimum wage ($7.78 per hour as of Jan. 1, 2013)
Connecticut	40 times state or federal minimum wage ($8.25 per hour)
Delaware	85% of wages
Hawaii	All but 5% of the first $100 in wages, all but 10% of the next $100, and all but 20% of the remainder
Illinois	85% of wages or 45 times federal minimum wage
Maine	75% of wages or 40 times federal minimum wage (for consumer credit transactions)
Massachusetts	85% of wages or 50 times the greater of the state or federal minimum wage
Minnesota	75% of wages or 40 times federal minimum wage
Nebraska	85% of wages of head of household
Nevada	75% of wages or 50 times federal minimum wage

STATE	AMOUNT PROTECTED
"D" States Preserve More of a Worker's Wages than the Minimum Required by Federal Law (*continued*)	
New Hampshire	50 times federal minimum wage
New Mexico	75% of wages or 40 times federal minimum wage
North Dakota	75% of wages or 40 times federal minimum wage, plus $20 per dependent
South Dakota	80% of wages, or 40 times federal minimum wage plus $25 per dependent
Tennessee	75% of wages or 30 times federal minimum wage, plus $2.50 per week for each dependent child under age 16
Vermont	85% of wages or 40 times federal minimum wage; if debt arose from consumer credit transaction, more is protected if debtor shows need
Virginia	75% of wages or 40 times federal minimum wage
Washington	75% of wages or 35 times federal minimum wage
West Virginia	80% of wages or 30 times federal minimum wage
"F" States Protect Only the Federal Minimum	
Alabama	75% of wages or 30 times federal minimum wage
Arizona	75% of wages or 30 times federal minimum wage
Arkansas	75% of wages or 30 times federal minimum wage
District of Columbia	75% of wages or 30 times federal minimum wage
Georgia	75% of wages or 30 times federal minimum wage
Idaho	75% of wages or 30 times federal minimum wage
Indiana	75% of wages or 30 times federal minimum wage
Kansas	75% of wages or 30 times federal minimum wage
Kentucky	75% of wages or 30 times federal minimum wage
Louisiana	75% of wages or 30 times federal minimum wage
Maryland	75% of wages or 30 times federal minimum wage
Michigan	75% of wages or 30 times federal minimum wage
Mississippi	75% of wages or 30 times federal minimum wage
Montana	75% of wages or 30 times federal minimum wage
Ohio	75% of wages or 30 times federal minimum wage
Oklahoma	75% of wages or 30 times federal minimum wage, but judge can protect more in case of hardship
Oregon	75% of wages or 30 times federal minimum wage
Puerto Rico	75% of wages or 30 times federal minimum wage
Rhode Island	75% of wages or 30 times federal minimum wage
Utah	75% of wages or 30 times federal minimum wage
Wyoming	75% of wages or 30 times federal minimum wage

Appendix B: Comparison of Amount Garnishable Under Current and Proposed Law Compared to HUD Calculations

Gross Income			Amount Garnishable: Current Law		Amount Garnishable: Proposed Law		
Hourly	**Weekly**	**Annual**	**Weekly**	**Annual**	**Weekly**	**Annual**	**HUD FY 2018 Income Limits Documentation System (Washington-Arlington-Alexandria, DC-VA-MD HUD Metro FMR Area)**
7.25	$290	$15,080	$44	$2,262	$0	$0	Income less than Extremely Low Income
9.25	$370	$19,240	$83	$4,329	$0	$0	
12.50	$500	$26,000	$113	$5,850	$0	$0	
15.00	$600	$31,200	$135	$7,020	$0	$0	
16.90	676	$35,150	$152	$7,909	$0	$0	**For FY 2018, $35,150 is Extremely Low Income for a household of 4 in Washington, DC.
20.00	800	$41,600	$180	$9,360	$13	$650	Income less than Very Low Income.
25.00	1000	$52,000	$225	$11,700	$63	$3,250	
28.17	1127	$58,600	$254	$13,185	$94	$4,900	**For FY 2018, $58,600 is Very Low Income for a household of 4 in Washington, DC.
30.00	1200	$62,400	$270	$14,040	$113	$5,850	Income less than Low Income.
35.00	1400	$72,800	$315	$16,380	$163	$8,450	
37.24	1489	$77,450	$335	$17,426	$185	$9,613	**For FY 2018, $77,450 is Low Income for a household of 4 in Washington, DC.

Notes: Weekly income assumes 40 hours at same hourly rate. All annual calculations assume same income or garnishment rate for 52 weeks. Calculations of garnishable weekly income under the current law assume that disposable income is 90% of gross.

Source: https://www.huduser.gov/portal/datasets/il/il2018/2018summary.odn

Explanation for calculation of extremely low income limits: https://www.huduser.gov/portal/datasets/il/il2018/2018ILCalc3080.odn

Explanation for calculation of very low income limits: https://www.huduser.gov/portal/datasets/il/il2018/2018IlCalc.odn

Explanation for calculation of low income limits: https://www.huduser.gov/portal/datasets/il/il2018/2018ILCalc3080.odn