

RÉSUMÉ DIGEST

ACT 268 (SB 476)

2026 Regular Session

Pressly

Existing law (C.C.P. Art. 2412) provides that the sheriff shall serve upon the garnishee the citation and a copy of the petition and of the interrogatories, together with a notice that a seizure is thereby effected against any property of or indebtedness to the judgment debtor.

New law retains existing law but requires that the notice includes in boldface, the following: "The failure to file into the court record within 30 days your sworn answer to these interrogatories may cause you to be personally responsible for the entire amount owed by the judgment debtor."

Existing law provides that the judgment creditor shall send to the judgment debtor written notice of the filing of the garnishment petition by mail or electronic means. Further provides that the notice provided to the judgment debtor shall have no effect on the validity of the seizure. New law retains existing law.

Existing law (C.C.P. Art. 2413) provides that if the garnishee fails to answer within the delay provided by existing law (C.C.P. Art. 2412), the judgment creditor may proceed by contradictory motion against the garnishee for the amount of the unpaid judgment, with interest and costs. Further provides that the failure of the garnishee to answer prior to the filing of such a contradictory motion is prima facie proof that he has property of or is indebted to the judgment debtor to the extent of the judgment, interest, and costs.

New law retains existing law. Existing law provides that judgment shall be rendered against the garnishee on trial of the motion unless he proves that he had no property of and was not indebted to the judgment debtor. Further provides that if on the trial of such motion, the garnishee proves the amount of such property or indebtedness, the judgment against the garnishee shall be limited to the delivery of the property or payment of the indebtedness, as provided in existing law (C.C.P. Art. 2415).

New law provides that if the judgment was rendered pursuant to existing law against the garnishee as a result of his failure to appear after proper service, the garnishee shall have 30 days from service of the judgment to move for a new trial.

New law provides that any motion for a new trial granted only if it includes an affidavit affirming the facts that the garnishee is required to provide pursuant to new law.

New law provides that at any new trial granted pursuant to existing law, the garnishee bears the burden of proof that he never had any property of and was never indebted to the judgment debtor during the pendency of the garnishment proceeding, or that he has satisfied the judgment to the full extent of the amount of such property or indebtedness actually in his possession at any time subsequent to commencement of the garnishment proceeding by service of the petition upon him.

Existing law provides that regardless of the decision on the contradictory motion, the court shall render judgment against the garnishee for the costs and a reasonable attorney fee for the motion. New law retains existing law and provides that this include an award against the garnishee for the additional cost and a reasonable attorney fee actually incurred by the judgment creditor due to the fault of the garnishee in failing to initially respond.

Effective August 1, 2026.

(Amends C.C.P. Arts. 2412(A) and 2413(B) and (C))