

## **Criminal and Traffic Fines Enforceable as Money Judgments Information Sheet**

### **I. PURPOSE**

Before 2000, it was unclear whether collections programs had authority to enforce fines more than 10 years old. That is, Penal Code section 1214(a) states that fines “may be enforced in the manner provided for the enforcement of money judgments generally” and money judgments must be renewed after 10 years.

### **II. PENAL CODE 1214(d) AMENDMENT**

Senate Bill 857 amended Penal Code section 1214(d) to clarify that fines in criminal and traffic cases are exempt from the 10-year limitations period applicable to enforcement of civil judgments.

This amendment applies to criminal and traffic fines imposed after October 19, 2000.

### **III. JUDGMENTS BEFORE OCTOBER 19, 2000**

Because Senate Bill 857 was not retroactive, collections programs do not appear to have authority to enforce criminal judgments entered on or before October 19, 2000.

### **IV. COLLECTION EFFORTS**

While collections programs may still send letters and make phone calls to debtors, any methods authorized under the Enforcement of Judgments Law (Code Civ. Proc., §680.010, et seq.) are no longer available on fines entered before October 19, 2000.

### **V. DISCHARGE FROM ACCOUNTABILITY**

When a collections program determines that the cost of pursuing collections outweighs the likelihood of collecting, or the likelihood of collection does not warrant the expense involved, it can apply to the Presiding Judge or Board of Supervisors to discharge the amount from accountability, under Government Code sections 25257-25259.95.

### **VI. REMEDIES AVAILABLE TO COLLECT A CIVIL MONEY JUDGMENT**

When there is a court-ordered money judgment against a debtor and the debtor fails to pay, the debtor’s wages may be 1) garnished, 2) a levy can be placed against the debtor’s bank account, or 3) a lien can be placed on the debtor’s real or personal property.

If the debtor is employed, an Earnings Withholding Order can be obtained to garnish the debtor’s wages until the balance is paid in full. The debtor can be ordered to pay up to 25 percent of the amount over the federal minimum wage that

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the debtor earns (as long as it is not exempt under other rules). A wage garnishment does not work against someone who is self-employed.

If the debtor has a bank account, a levy can be obtained on the bank account at the branch where the account is maintained. The account number must be provided in order to place the levy on the account.

The debtor has ten (10) days to file a claim of exemption to prevent wage or bank account garnishment. In the event the debtor files a claim of exemption, the creditor may object and the court will hold a hearing to decide if the creditor is entitled to any portion of the funds.

### **VII. LIENS AGAINST PERSONAL PROPERTY**

The debtor's personal property can be sold at public auction to pay the debt; however, often the cost of doing so is more than the value of the property. The personal property should be appraised in advance to insure that the property is worth the effort.

### **VIII. LIENS AGAINST REAL PROPERTY (LAND)**

A lien may be filed on real property, which would convert the judgment from an unsecured debt to a secured debt. When the defendant attempts to sell or refinance the real property, the judgment can be paid, plus any accrued interest from the escrow.

Another option is to "foreclose" on the judgment lien, which means the debtor is forced to sell the property and then pay the outstanding civil money judgment.

This is only effective when there is substantial equity in the property to pay all liens, as well as the costs of foreclosure.