

6-20/550.30 Bail or Other Property in Custody of Officer

Even though a political agency may not be subject to attachment or execution, an official of such agency may, under some circumstances, be subject to garnishment when he has property of the debtor in his possession or under his control. For example, a garnishment may be effectively served upon an officer of the law, such as a chief of police or sheriff, who is holding property, not under the custody of the law, as bailee of the debtor. ([Coffee v. Haynes, 124 C 561](#))

Property of a prisoner taken from him upon his arrest by an officer charged with that duty is not subject to attachment or garnishment. By reason of public policy, it is held to be *in custodia legis* in order to avoid any possible abuse of criminal process. This rule does not apply, however, where the property was taken after a final conviction in a criminal case. ([Emmanuel v. Sichofsky, 198 CA 713](#)) Another exception to this rule is that a garnishment may be enforced where it appears that criminal process has not been abused, and the money garnished was obtained by the criminal acts of the debtor from the attaching claimant. ([Golden Gate C.P. Co. v. Superior Court, 1 CA 2d 426](#))

Bail money deposited with the clerk of the court in a criminal case may be reached by a creditor of the depositor through an ordinary garnishment served on the clerk of the court after the bail has been exonerated. ([Dunsmoor v. Furstenfeldt, 88 CA 522](#); [Credit Bureau of San Diego v. Getty, 61 CA 2d Supp. 823](#))

Trust funds held by the county treasurer are, in legal contemplation, in the possession of the official or agency that deposited the funds, with the county treasurer as its depository. ([Jensen v. Evans, 13 CA 2d 401](#); [Credit Bureau of San Diego v. Getty, 61 CA 2d Supp. 823](#))
