

HOUSE BILL REPORT

HB 1687

As Reported By House Committee On:
Law & Justice

Title: An act relating to wage garnishment.

Brief Description: Reducing the impact of wage garnishments on employers.

Sponsors: Representatives Sheahan, Delvin, Sheldon, McMorris, L. Thomas, Mielke, Grant, Morris, Benson, D. Schmidt, Alexander, D. Sommers, Johnson, Thompson, Talcott and Boldt.

Brief History:

Committee Activity:

Law & Justice: 2/28/97, 3/4/97 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff; Sherstad and Skinner.

Minority Report: Do not pass. Signed by 1 member: Representative Constantine, Assistant Ranking Minority Member.

Staff: Trudes Hutcheson (786-7384).

Background: There are several ways to satisfy a judgment or enforce a child support order. A private party can attempt to satisfy a judgment against an obligor by obtaining a civil order to garnish a person's earnings or property. The garnishee is the person who has the obligor's property, and in many cases, is the obligor's employer. To enforce spousal maintenance or child support obligations, a court or the Division of Child Support (DCS) may issue an income withholding order to the obligor's employer. There are certain procedures a party must comply with to obtain a garnishment order or an income withholding order. A garnishee or employer has certain duties upon receiving a notice of garnishment or income withholding order.

Civil Garnishment Orders:

Under the statutes governing the enforcement of judgments, the garnishee receiving a garnishment order is required to answer the order within 20 days. If the garnishee fails to answer the order, the garnishee could be liable for the full amount of the judgment, along with interests and costs, whether or not the garnishee owes anything to the obligor.

Service of the garnishment order upon the garnishee is invalid unless it is served with, among other things, a cash or a check made payable to the garnishee in the amount of \$10. This is generally called an answer fee.—

Except in cases of child support enforcement, the amount of earnings for each week that are exempt from garnishment is the greater of:

- (a) 30 times the federal minimum hourly wage in effect at the time the earnings are payable; or
- (b) 75 percent of the obligor's disposable earnings.

In child support cases, an employer cannot withhold more than 50 percent of the obligor's disposable earnings.

If the garnishee fails or refuses to deliver the obligor's earnings or property, the garnishee could be fined for contempt and imprisoned until the garnishee delivers the property.

Generally, a federal employee's wages are subject to garnishment in the same manner and extent as if the federal agency were a private person.

Spousal Maintenance and Child Support Orders:

Notices of payroll deductions and wage withholding orders for child support have priority over other civil garnishment orders. The court or the Department of Social and Health Services, DCS may issue a wage withholding order or notice of payroll deduction to enforce a spousal maintenance order or child support order.

An employer receiving a wage assignment order or payroll deduction must respond to the order within 20 days. The employer may deduct a processing fee from the remainder of the employee's earnings. The fee must not exceed \$10 for the first disbursement made by the employer and \$1 for each subsequent disbursement.

If the employer fails to respond to a wage assignment order, fails or refuses to comply with the order, or is unwilling to comply with other requirements, the employer may be liable for 100 percent of the obligor's spousal maintenance or child support debt, or the amount of support that should have been withheld from the employee's earnings, whichever is less. The employer is also liable for costs,

interest, and reasonable attorney's fees. In some cases, the employer may be subject to contempt of court for failing to comply with a court order. Federal law requires that states hold the employer liable for the amount the employer should have withheld.

The employer is required to notify the court if the obligor is no longer employed at that location or if the obligor no longer receives earnings from the employer. If the employer no longer employs the obligor, the employer is required to hold the wage assignment order for one year after the obligor has left or until the employer no longer possesses any earnings owed to the obligor, whichever period is longer. If the obligor returns to the employer during that period, the employer is required to immediately begin withholding the obligor's wages according to the terms of the order.

Summary of Substitute Bill:

Civil Garnishment Orders:

Before the garnishee can be held liable for the full amount of the judgment when the garnishee fails to timely respond to the order, a notice must be given to the garnishee at least 10 days before entry of the judgment.

The requirement for an answer fee is eliminated, but the garnishee may deduct a processing fee from the obligor's earnings. The processing fee must not exceed \$20 for the first disbursement. If the garnishment is a continuing lien, the garnishee may also deduct \$10 at the time of the final disbursement.

If any nonexempt wages remain after withholding for child support, the garnishee must withhold from the remaining nonexempt wages for any civil garnishment order.

A standard form and general procedures are created for the service of garnishment orders on the federal government.

Spousal Maintenance and Child Support Orders:

An employer who fails to timely respond to a wage withholding order or notice of payroll deduction for spousal maintenance or child support will be liable for the amount that should have been withheld.

The processing fees the employer may deduct from the employee's wages are raised from \$10 to \$30 for the first disbursement and \$1 to \$5 for each subsequent disbursement. When the DCS issues a wage withholding order or notice of payroll deduction, the employer may deduct the processing fee from the amount required to be withheld before remitting the amount to the Washington State Child Support

Registry. The DCS must then contribute the amount that was deducted by the employer as a processing fee.

When receiving a wage withholding order for an obligor who is no longer employed at the location, the employer must retain the order until the employer no longer possesses any earnings owed to the obligor.

Miscellaneous:

Various state agencies, collection agencies, and representatives from small businesses are required to work together to establish simplified garnishment procedures and a standard form to reduce paperwork and confusion.

Substitute Bill Compared to Original Bill: The original bill limited the garnishee's or employer's liability to \$100 - \$250 for failing to timely answer the civil garnishment or child support wage withholding order, and did not require the DCS to contribute the amount of processing fees deducted by employers.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Raising the processing fees will help employers with the costs of wage withholding. Wage withholding and garnishment orders are confusing for small businesses. Creating a task force to recommend standard procedures will help reduce paperwork.

Testimony Against: Employers are willing to help creditors satisfy debts and help families collect child support, but the procedures and requirements should not be so burdensome and costly. Changes need to be made to the bill to reflect the needs of all interested groups.

Testified: Cliff Finch, Association of Washington Business (pro); Carolyn Logue, Federation of Independent Businesses (pro, with suggestions); Betty Neighbors, citizen (pro, with suggestions); John Grimm and Pete Rosvall, Washington Collectors Association (con, with suggestions); Mike Ricchio, Department of Social and Health Services, Division of Child Support (con, with suggestions); and Gary Gardner, Washington Credit Union (con).