

FINAL BILL REPORT

E2SHB 1687

PARTIAL VETO

C 296 L 97

Synopsis as Enacted

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

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Sheahan, Delvin, Sheldon, McMorris, L. Thomas, Mielke, Grant, Morris, Benson, D. Schmidt, Alexander, D. Sommers, Johnson, Thompson, Talcott and Boldt).

House Committee on Law & Justice
House Committee on Appropriations
Senate Committee on Law & Justice

Background: There are several ways to satisfy a judgment or enforce a child support order. A private party may attempt to satisfy a judgment against an obligor by obtaining a civil order to garnish the obligor'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 Office of Support Enforcement (OSE) may issue an income withholding order or notice of payroll deduction to the obligor's employer. A garnishee or employer has certain duties upon receiving a notice of garnishment, income withholding order, or notice of payroll deduction.

Civil Garnishment Orders. Under the civil garnishment statutes, 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 called an answer fee.—

Generally, the amount of earnings for each week that is exempt from garnishment is the greater of: 30 times the federal minimum hourly wage in effect at the time the earnings are payable; or 75 percent of the obligor's disposable earnings.

In child support cases, 50 percent of the obligor's disposable earnings are exempt from withholding.

A federal employee's wages are generally 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 obligations have priority over other civil garnishment orders. The court may issue a wage withholding order to an employer to enforce a child support or spousal maintenance order. The OSE may issue a notice of payroll deduction to an employer, or to the Employment Security Department if the parent ordered to pay child support is receiving unemployment compensation.

The employer or the Employment Security Department has 20 days to answer the order or notice and may deduct a processing fee from the employee's earnings or unemployment compensation. 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 order or notice remains in effect until: (1) it has been released by the OSE; (2) the court enters an order terminating the notice; or (3) one year has expired since the employer employed the obligor or was in possession of the obligor's earnings, or the Employment Security Department was in possession of or owed any unemployment compensation benefits to the obligor. If the obligor returns to the employer during the one-year period, the employer is required to immediately begin withholding the obligor's wages according to the terms of the order.

Summary:

Civil Garnishment Orders. Before the garnishee may 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 to satisfy a child support obligation, the garnishee must garnish any remaining nonexempt wages to satisfy a 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 only for the amount that should have been withheld. The processing fee is raised from \$10 to \$15 for the first disbursement.

The employer must notify the Office of Support Enforcement (OSE) when the employee leaves employment. The employer must retain the order until the employer no longer possesses any earnings owed to the obligor. A notice of payroll deduction remains in effect with the Employment Security Department until released by the OSE or the court enters an order terminating the notice. The employer or the Employment Security Department is no longer required to retain the order or notice of payroll deduction for a one year period.

Miscellaneous. A task force is created of representatives from various state agencies, collection agencies, and representatives from small businesses to establish simplified garnishment procedures and a standard form to reduce paperwork and confusion. The task force must also study the ability of the OSE to pay for the employers' processing fees.

Votes on Final Passage:

House 61 33
Senate 42 1 (Senate amended)
House 63 31 (House concurred)

Effective: July 27, 1997

Partial Veto Summary: The governor vetoed sections of the bill that eliminated the requirement for employers to retain child support wage withholding orders for up to one year after the employee leaves employment. The governor vetoed all but one of the sections that increased the employers' processing fee, and one of the three sections that made employers liable for only the amount of money that should have been withheld. Lastly, the governor vetoed sections of the bill that created the wage garnishment joint task force.