

FINAL BILL REPORT

ESSB 6295

C 72 L 00

Synopsis as Enacted

Brief Description: Changing garnishment proceedings.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Heavey, McCaslin, Johnson, T. Sheldon, Swecker, Long and Deccio).

Senate Committee on Judiciary

House Committee on Judiciary

Background: The proponents of this bill believe there are problems across the state with the processing of writs of garnishment and that differences in form and procedure exist from court to court. In many parts of the state, garnished funds are remitted to the plaintiff through a pay order, without reducing to judgment any of the garnishment costs incurred or funds withheld. The practice in other parts of the state is to reduce the withheld funds to judgment against the garnishee, reduce the amount of the costs incurred in the garnishment process to judgment against the defendant, and order the withheld amount paid to either the plaintiff or the court clerk, depending on the county. A recent Supreme Court opinion states that the garnished amounts must be reduced to judgment against the garnishee, and that requiring payment of costs or other garnished amounts without judgment violates the statute. In addition, the current statutes do not provide a mechanism for reducing incurred cost to judgment against the defendant.

Summary: Any fees legally chargeable to the plaintiff in the garnishment proceeding can be included in the amount garnished. The garnishee is informed in the writ form of the possibility that judgment may be taken against it even if the writ is answered properly and that a judgment for costs may be entered.

The court is authorized to order garnished amounts to be paid to the plaintiff or to the court. The garnishee is advised that failure to pay the withheld amounts could result in execution of the judgment against the garnishee. When a garnishee tenders funds to the plaintiff or to the court in lieu of answering and/or prior to any judgment on answer being entered, the court is allowed to treat such tenders as answers.

Payments in superior court are made through the court clerk while payments in district court are made directly to the plaintiff.

Judgment may be taken against the defendant for the taxable costs of the writ. However, if at the time the writ was issued, the defendant was not employed by the garnishee or did not have a bank account with the garnishee or the garnishee did not have in its possession any funds or property of the defendant, then no judgment for costs will be awarded. If a defendant or third party attempts to pay off a judgment during the pendency of a garnishment, the costs and attorney fees incurred in the garnishment must also be paid. A standardized Judgment and Order to Pay form is created.

Votes on Final Passage:

Senate 46 0

House 97 1

Effective: June 8, 2000