

SENATE BILL REPORT

SB 6295

As Reported By Senate Committee On:
Judiciary, January 24, 2000

Title: An act relating to garnishment proceedings.

Brief Description: Changing garnishment proceedings.

Sponsors: Senators Heavey, McCaslin, Johnson, T. Sheldon, Swecker, Long and Deccio.

Brief History:

Committee Activity: Judiciary: 1/17/2000; 1/24/2000 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6295 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Costa, Goings, Hargrove, Haugen, Long, McCaslin and Thibaudeau.

Staff: Lidia Mori (786-7755)

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 of Substitute Bill: 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.

Substitute Bill Compared to Original Bill: The garnishee is informed in writing of the possibility that judgment including costs may be taken against it even if the writ is answered properly. If the judgment is a district court order, the garnishee is directed to pay its judgment amount to plaintiff directly or through plaintiff's attorney and if any payment is received by the clerk of the court, the clerk will disburse such payment to the plaintiff.

Appropriation: None.

Fiscal Note: Requested on January 17, 2000.

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

Testimony For: This bill clarifies the garnishment procedures and standardizes the forms and procedures used in garnishment proceedings. It makes clear that incurred costs are part of a garnishment and can be collected.

Testimony Against: None.

Testified: PRO: Kevin Underwood, Benita Gjurassic, Washington Collector's Association; Marjorie Rombaugh; Judy Warnick, Legislative Chair of Washington Collector's Association; Martha Hardin, Superior Court Judges Association.