

SENATE BILL REPORT

SSB 5187

As Passed Senate, March 9, 2001

Title: An act relating to updating creditor/debtor personal property exemptions.

Brief Description: Updating creditor/debtor personal property exemptions.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline and Constantine).

Brief History:

Committee Activity: Judiciary: 1/25/01, 2/20/01 [DPS].

Passed Senate: 3/9/01, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5187 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Costa, Hargrove, Johnson, Kastama, Long, McCaslin and Zarelli.

Staff: Dick Armstrong (786-7460)

Background: Under current law if a creditor seeks to obtain payment for monies owed by a debtor to the creditor, the personal property of the debtor is subject to execution, attachment, and garnishment. However, as a matter of public policy, state statutes provide that certain property (subject to dollar limitations) is exempt from legal process.

The Washington State Bar Association (WSBA) is recommending that certain exemptions be increased, or new exemptions be created, to preserve to debtors and their families a minimum amount of financial assets to assist with their survival. The WSBA is of the belief that increasing the state exemptions will lessen the pressure on debtors to file for bankruptcy in order to take advantage of the federal Bankruptcy Code.

Summary of Bill: The current personal property exemptions from legal process are expanded as follows:

- (1) a community household goods exemption for spouses is established in the amount of \$5,400 (currently \$2,700 for an individual);
- (2) the exemption for other personal property— is increased to \$2,000 (currently \$1,000), including not more than \$200 in cash and not more than \$200 in accounts or securities;

- (3) the exemption for motor vehicles is expanded to allow spouses to retain two vehicles worth a total of \$5,150 (currently two vehicles not to exceed \$2,500 for an individual);
- (4) an exemption is created for the right to or proceeds of payments, not to exceed \$16,150, for personal bodily injury of the debtor, not including pain and suffering and actual pecuniary loss;
- (5) an exemption is created for payments for loss of future earnings of the debtor, in an amount not to exceed that which is reasonably necessary for the support of the debtor and dependents; and
- (6) exemptions are created for child support payments paid or owed to the debtor and professionally prescribed health aids for the debtor and dependents.

The exemptions do not apply to a judgment for restitution for a victim of a crime and the state may seek reimbursement for Medicaid payments from personal injury payments.

If a person claims an exemption from garnishment, he or she bears the burden of proving the exemption by providing sufficient documentation.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill is an attempt to update the personal property exemptions to make them closer to the federal exemptions. The amounts of the increases are reasonable and fair, and in a few instances may reflect on oversight in state law. For example, most people would agree that wheelchairs and child support should be exempt. The bill helps to promote good public policy.

Testimony Against: We object to the portion of the bill that allows the amount of cash to be retained by the debtor to be increased from \$100 to \$1,000. The amount of \$200 is more reasonable as an increase. To increase the cash amount by ten times (\$100 to \$1,000) is too much. When legal process is used to collect a debt, it is difficult to prove where the funds came from. This bill increases the exemption amounts and will make it harder to collect monies.

Testified: Martin Snodgrass, WSBA (pro); Jim Grimm, Benita Gjurasic, Kevin Underwood, Washington Collectors Assn. (con).

House Amendment(s): The provision that states that no property may be exempt from execution, levy, attachment or garnishment issued by the Division of Child Support (DCS) or any agent or assignee of DCS is removed.