

SENATE BILL REPORT

SB 6266

As Passed Senate, February 11, 2002

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

Brief Description: Updating creditor/debtor personal property exemptions.

Sponsors: Senators Johnson and Kline.

Brief History:

Committee Activity: Judiciary: 1/22/02, 1/28/02 [DP].

Passed Senate: 2/11/02, 48-1.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Kastama, Vice Chair; Costa, Johnson, McCaslin, Poulsen 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 \$5,000 (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 or collection actions taken by a child support agency, 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: The bill creates reasonable relief for debtors and still allows for a fair collection process.

The Division of Child Support (DSHS) is in support of the bill.

The level of the exemptions are minimum amounts to allow a person to survive. They are set at modest levels and allow persons to perhaps avoid federal bankruptcy proceedings. This is the same bill that passed the Senate last year.

Testimony Against: Financial institutions are of the opinion that debtors should pay their bills and their debts should be paid in full. People should be responsible for their actions and shouldn't be able to take advantage of federal and state laws to protect assets.

Testified: PRO: Judy Warniek, Collectors Association; Martin Snodgrass, WSBA; Georgion DeKay, DSHS; CON: Gary Gardner, Boeing Credit Union (and proxy for other financial institutions).