

# HOUSE BILL REPORT

## HB 2731

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to collection of medical debt.

**Brief Description:** Concerning collection of medical debt.

**Sponsors:** Representatives Jinkins, Macri, Cody, Tharinger, Kilduff, Slatter, Clibborn, Stonier, Valdez, Robinson, Riccelli, Hansen, Orwall, Stanford, Gregerson, Doglio and Frame.

**Brief History:**

**Committee Activity:**

Judiciary: 1/18/18, 2/1/18 [DPS].

**Brief Summary of Substitute Bill**

- Directs the Washington Institute for Public Policy to conduct a study of medical debt within Washington and as compared to other states, and requires a report to the Legislature by December 1, 2019.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Jinkins, Chair; Graves, Assistant Ranking Minority Member; Goodman, Hansen, Kirby, Klippert, Muri, Orwall, Shea and Valdez.

**Minority Report:** Do not pass. Signed by 1 member: Representative Haler.

**Staff:** Cece Clynch (786-7195).

**Background:**

Interest.

Every loan or forbearance of money, goods, or thing in action bears interest at the rate of 12 percent per year where no different rate is agreed to in writing between the parties. If an agreement in writing between the parties provides for the payment of money at the end of an

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agreed period of time, or in installments over an agreed period of time, then the agreement constitutes a writing.

Postjudgment interest begins to run on a judgment on the date the judgment is entered. Judgments predicated on a written contract providing for interest at a particular rate bear interest at that rate. Other judgments bear interest as follows: unpaid child support at 12 percent; tort judgments at a special rate established in statute; all other judgments at the maximum rate permitted under the usury statute.

The usury statute provides that any rate of interest shall be legal so long as the rate does not exceed the higher of:

- 12 percent; or
- 4 percent above the interest rate on 26-week treasury bills.

Prejudgment interest is intended to make a plaintiff whole by compensating for the use value of damages incurred from the time of the loss until the date of judgment. A prejudgment award is permissible when an amount claimed is liquidated or when the amount of an unliquidated claim is for an amount due upon a specific contract for the payment of money, and the amount due is determinable by computation with reference to a fixed standard contained in the contract, without reliance on opinion or discretion.

#### Enforcement of Debts.

A creditor may seek enforcement of a debt owed by a debtor through execution, attachment, or garnishment of the debtor's property. Attachment is a process that allows a plaintiff in a court action to ask the court to attach the defendant's property during the pendency of the action as security for satisfaction of a judgment that may be rendered in favor of the plaintiff. Execution is the process for enforcing a court judgment for the payment of money or property by "levying" on the judgment debtor's property. Garnishment allows a creditor to reach a debtor's property that is held by a third person, such as a bank or an employer.

Generally, a judgment may be enforced for a period of 10 years from the date of judgment, and for an additional 10 years if the judgment is extended within 90 days of the end of the initial 10-year period. All real and personal property of a judgment debtor is subject to execution to satisfy the judgment, unless the property is exempt from execution.

There are a number of exemptions for personal property up to a certain value, for such things as household goods, clothing, vehicles, and tools of the trade. The exemption for bank accounts is \$500. In a garnishment proceeding, a debtor's earnings are exempt up to the greater of 35 times the federal minimum hourly wage or 75 percent of the disposable earnings. With respect to a judgment for child support, however, the exempt amount is 50 percent of disposable earnings.

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#### **Summary of Substitute Bill:**

The Washington Institute for Public Policy (WSIPP) is tasked with conducting a study of medical debt in Washington. This study must include a systematic review of the prevalence and impact of medical debt on Washingtonians including, but not limited to, if available:

- the nature and amount of medical debt;
- the amount of prejudgment interest sought;
- attorneys' fees and other collection costs sought by collection agencies;
- number and rate of default judgments in medical debt collection cases;
- the amount of post-judgment interest, garnishment fees, and other costs after judgment; and
- hospital debt collection policies.

The study must also include a comparison of the laws and practices regarding medical debt collection in this state with those in other states. In conducting the study, the WSIPP may work with the Administrative Office of the Courts and individual courts in order to access necessary data.

A report of the findings is due by December 1, 2019.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill requires a Washington Institute for Public Policy study of medical debt within Washington and as compared to other states, and requires a report to the Legislature by December 1, 2019. By contrast, the original bill places limits upon the collection of medical debt as follows:

- No prejudgment interest is allowed on medical debt. Interest or late fees on medical debt covered by charity care is also prohibited. The postjudgment interest rate is equal to the weekly 1-year average constant maturity treasury yield, but may not be less than 2 percent or more than 5 percent.
- The general exemption for bank accounts in the case of medical debt is raised to \$2,500. If a garnishment is based on a judgment for medical debt, this fact must be noted on the garnishment forms. The exemption for earnings in such cases is the greater of 50 times the minimum wage in the state or 85 percent of disposable earnings.
- In the case of medical debt, collectors must notify a debtor of the right to request an itemized bill. If the debtor so requests, the collector must provide an itemized bill that includes specified information.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available. New fiscal note requested on February 1, 2018.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The fact that there is prejudgment interest on medical debt is something that not everyone knows. There are so many bankruptcies today that are due to medical debt. Studies have shown that medical and consumer debt are at the top of the list of legal problems that low-income people experience. If collection efforts include garnishment, suddenly a family can lose one-quarter of the family income, and this creates immediate financial problems. Many people have no idea that there is such a thing as charity care and that they might qualify. If people in trouble with medical debt are provided legal assistance, many of them can be helped if they are eligible for charity care. They need more information up front, but they also need wage protection. One hospital never mentioned charity care to the patient, then asked for a high down payment on a bill that she could not afford to make. After she got behind on payments, her wages were garnished and what remained of her wages was not enough to cover her needs. The collection agency kept calling, and she was able to keep up with payments for a year, but then the collection agency cleaned out her bank account. Legal services was able to help her, and now her credit score is improving. The Homeownership Resource Center fields calls related to home foreclosures. In 2017, about 8,000 calls were fielded and 24 percent of them were related to medical debt. One agency reports having over 1,000 files, with medical debt totaling over \$3 million, and 161 cases in which medical debt was the primary cause of bankruptcy. Protections are needed to enable people to stay in their homes. The interest rate in Washington, 12 percent, is one of the highest rates in the nation, and a conversation should be had about lowering the interest rate overall on all debt. Both medical debt and student debt are problems throughout the country. There are racial disparities with respect to who is burdened with debt, and many low income persons want to pay their debts but they simply cannot afford to do so. Medical debt has been a problem for many years, and now is the time to address it. Requiring that debt be verified is a very helpful piece. It is important to know whether the debt belongs to a particular person or whether it is a mistake and actually belongs to someone else. Fifty-two percent of debt on credit cards is medical debt. In examining thousands of court records, it became clear that the principal doubles and triples due to interest and fees. For many, medical debt results in financial ruin and personal bankruptcy. It also results in foregone medical care out of fear of incurring more debt. This bill does not address all of the issues, but it will help to mitigate the problem.

(Opposed) This bill overreaches and creates unintended inequity, making medical debt a second tier of debt. Many small medical offices will not be able to buy what they need for the practice. They will not be able to charge interest for overdue debt but, meanwhile, they have to pay interest on things that they buy. The bill excludes dental debt, but that debt is interchangeable with medical debt. The bill will result in increased costs. It is understandable to want to protect the most vulnerable, but perhaps the focus should be on charity care. This bill will make providers require cash for services and, as a result, people will not go to the doctor but will go to the hospital emergency room instead. Different judgment rates on different debts will force collectors to sue separately. If a single collector has doctor, dentist, and plumber debt all owed by a single debtor, and medical debt is treated differently, the legal costs to debtors will actually increase. Collectors already have to provide a lot of information to debtors. In light of the fact that this is medical debt, the federal Health Insurance Portability and Accountability Act governs what can and cannot be disclosed. Some debtors will not want to have garnishment or other forms make special note of the fact that it is medical debt. Hospitals have been working to make more people aware of the availability of charity care and are happy to talk with others about this effort. In some

cases, people who are actually able to pay a medical bill in its entirety choose not to. The language in the bill is not entirely clear with respect to charity care and financial assistance.

**Persons Testifying:** (In support) Representative Jenkins, prime sponsor; Julia Kellison, Northwest Justice Project; Xochil Hernandez Delgado; Denise Rodriguez, Washington Homeownership Resource Center; Marcy Bowers, Statewide Poverty Action Network; Lili Sotelo, Columbia Legal Services; and Vince Kueters.

(Opposed) Jason Whoeler, Melinda Chumbler, and Kelsi Hamilton, Washington Collectors Association; and Zosia Stanley, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying:** None.