

SENATE BILL REPORT

E2SHB 1687

As Reported By Senate Committee On:
Law & Justice, April 1, 1997

Title: An act relating to wage garnishment.

Brief Description: Reducing the impact of wage garnishments on employers.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Sheahan, Delvin, Sheldon, McMorris, L. Thomas, Mielke, Grant, Morris, Benson, D. Schmidt, Alexander, D. Sommers, Johnson, Thompson, Talcott and Boldt).

Brief History:

Committee Activity: Law & Justice: 3/24/97, 4/1/97 [DPA].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Stevens and Zarelli.

Staff: Mal Murphy (786-7412)

Background: There are several ways to satisfy a judgment or enforce a child support order. Garnishment is one of the most typical. A garnishee is a person who has property or money owned by or owed to an obligor, and, in many cases, is the obligor's employer. To enforce spousal maintenance or child support obligations, a court, or the Division of Child Support (DCS) may issue an income withholding order to the obligor's employer. There are certain procedures a party must comply with to obtain a garnishment order or an income withholding order. A garnishee (or employer) has certain duties upon receiving a notice of garnishment or income withholding order.

Service of the garnishment order must be accompanied by a \$10 answer fee. A garnishee is required to answer the order within 20 days. Failure to do so can subject the garnishee to liability for the full amount of the judgment, along with interests and costs, whether or not the garnishee owes anything to the obligor.

Except in child support enforcement cases, 30 times the federal minimum hourly wage in effect at the time the earnings are payable, or 75 percent of the obligor's disposable earnings, whichever is greater, are exempt from garnishment. In child support cases, an employer cannot withhold more than 50 percent of the obligor's disposable earnings.

If the garnishee fails or refuses to deliver the obligor's earnings or property, the garnishee could be fined for contempt and imprisoned until the garnishee delivers the property.

Generally, a federal employee's wages are subject to garnishment in the same manner and extent as if the federal agency were a private person.

A court or DCS may issue a wage withholding order or notice of payroll deduction to enforce a spousal maintenance or child support order, which have priority over other civil garnishments.

An employer receiving a wage assignment order or payroll deduction must respond to the order within 20 days. The employer may deduct a processing fee from the remainder of the employee's earnings. The fee must not exceed \$10 for the first disbursement made by the employer and \$1 for each subsequent disbursement.

If the employer fails to respond to a wage assignment order, fails or refuses to comply with the order, or is unwilling to comply with other requirements, the employer may be liable for 100 percent of the obligor's spousal maintenance or child support debt, or the amount of support that should have been withheld from the employee's earnings, whichever is less, plus costs, interest, and reasonable attorney's fees. In some cases, the employer may be subject to contempt of court for failing to comply with a court order. Federal law requires that states hold the employer liable for the amount the employer should have withheld.

The employer is required to notify the court if the obligor is no longer employed or no longer receives earnings from the employer. If the employer no longer employs the obligor, the employer is required to hold the wage assignment order for one year after the obligor has left, or until the employer no longer possesses any earnings owed to the obligor, whichever is longer. If the obligor is reemployed during that period, the employer is required to immediately begin withholding the obligor's wages according to the terms of the order.

Summary of Amended Bill: Notice must be given at least ten days prior to the entry of any judgment against a garnishee for the full amount of the obligor's debt based on failure to timely respond to a garnishment order.

The requirement for an answer fee is eliminated, but the garnishee may deduct a processing fee of \$20 from the obligor's earnings. If the garnishment is a continuing lien, the garnishee may deduct another \$10 at the time of the final disbursement.

If any nonexempt wages remain after withholding for child support, the garnishee must withhold from the remaining nonexempt wages for any civil garnishment order.

A standard form and general procedures are created for the service of garnishment orders on the federal government.

An employer who fails to timely respond to a wage withholding order or notice of payroll deduction for spousal maintenance or child support is liable for the amount that should have been withheld.

The processing fees the employer may deduct from the employee's wages are raised from \$10 to \$15 for the first disbursement. They remain \$1 for each subsequent disbursement. When DCS issues a wage withholding order or notice of payroll deduction, the employer

may deduct the processing fee from the amount required to be withheld before remitting the amount to the Washington State Child Support Registry.

When receiving a wage withholding order for an obligor who is no longer employed at the location, the employer must retain the order until the employer no longer possesses any earnings owed to the obligor. The employer must promptly notify DCS when an employee leaves the job.

A task force of various state agencies, collection agencies, and representatives from small businesses is established to recommend simplified garnishment procedures and a standard form to reduce paperwork and confusion. The task force is to report to the relevant committees of the Legislature by February 1, 1998.

Amended Bill Compared to Substitute: Employers are obligated to promptly notify DCS when an employee subject to wage withholding leaves their employment.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Garnishments have become an increasing burden for employers. They sometimes strain the employer/employee relationship. The forms are complicated and confusing. We need to reduce this burden and eliminate or reduce some penalties on employers, as well as reduce and simplify paperwork. The bill should require an employer to notify DCS when an employee subject to wage withholding leaves the job.

Testimony Against: None.

Testified: Mike Riccio, DSHS, DCS (pro w/amendment); Karen Underwood, Kathy Ronner, WA Collectors Association (pro); Carolyn Logue, WFIB (pro); Vicky Gordon, WFIB/Pay Plus Benefits (pro).