

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6295

56th Legislature
2000 Regular Session

Passed by the Senate February 10, 2000
YEAS 46 NAYS 0

President of the Senate

Passed by the House March 2, 2000
YEAS 97 NAYS 1

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6295** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6295

Passed Legislature - 2000 Regular Session

State of Washington 56th Legislature 2000 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Heavey, McCaslin, Johnson, T. Sheldon, Swecker, Long and Deccio)

Read first time 1/25/00.

1 AN ACT Relating to garnishment proceedings; amending RCW 6.27.005,
2 6.27.090, 6.27.100, 6.27.190, 6.27.250, and 6.27.320; and adding a new
3 section to chapter 6.27 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 6.27.005 and 1998 c 227 s 1 are each amended to read
6 as follows:

7 The legislature recognizes that a garnishee (~~(defendant)~~) has no
8 responsibility for the situation leading to the garnishment of a
9 debtor's wages, funds, or other property, but that the garnishment
10 process is necessary for the enforcement of obligations debtors
11 otherwise fail to honor, and that garnishment procedures benefit the
12 state and the business community as creditors. The state should take
13 whatever measures that are reasonably necessary to reduce or offset the
14 administrative burden on the garnishee (~~(defendant)~~) consistent with
15 the goal of effectively enforcing the debtor's unpaid obligations.

16 **Sec. 2.** RCW 6.27.090 and 1988 c 231 s 24 are each amended to read
17 as follows:

1 (1) The writ of garnishment shall set forth in the first paragraph
2 the amount that garnishee is required to hold, which shall be an amount
3 determined as follows: (a)(i) If after judgment, the amount of the
4 judgment remaining unsatisfied on the clerk of the court's execution
5 docket, if any, plus interest to the date of garnishment, as provided
6 in RCW 4.56.110, plus taxable costs and attorney's fees, or (ii) if
7 before judgment, the amount prayed for in the complaint plus estimated
8 taxable costs of suit and attorneys' fees, together with, (b) whether
9 before or after judgment, estimated costs of garnishment as provided in
10 subsection (2) of this section. The court may, by order, set a higher
11 amount to be held upon a showing of good cause by plaintiff.

12 (2) Costs recoverable in garnishment proceedings, to be estimated
13 for purposes of subsection (1) of this section, include filing fee,
14 service and affidavit fees, postage and costs of certified mail, answer
15 fee or fees, other fees legally chargeable to a plaintiff in the
16 garnishment process, and a garnishment attorney fee in the amount of
17 the greater of fifty dollars or ten percent of (a) the amount of the
18 judgment remaining unsatisfied or (b) the amount prayed for in the
19 complaint. The garnishment attorney fee shall not exceed two hundred
20 fifty dollars.

21 **Sec. 3.** RCW 6.27.100 and 1998 c 227 s 3 are each amended to read
22 as follows:

23 The writ shall be substantially in the following form: PROVIDED,
24 That if the writ is issued under a court order or judgment for child
25 support, the following statement shall appear conspicuously in the
26 caption: "This garnishment is based on a judgment or court order for
27 child support": AND PROVIDED FURTHER, That if the garnishment is for
28 a continuing lien, the form shall be modified as provided in RCW
29 6.27.340: AND PROVIDED FURTHER, That if the writ is not directed to an
30 employer for the purpose of garnishing a defendant's earnings, the
31 paragraph relating to the earnings exemption may be omitted and the
32 paragraph relating to the deduction of processing fees may be omitted:

"IN THE ((SUPERIOR)) COURT
 OF THE STATE OF WASHINGTON IN AND FOR
 THE COUNTY OF

4 ,
 5 Plaintiff, No.
 6 vs.
 7 , WRIT OF
 8 Defendant GARNISHMENT
 9
 10 ,
 11 Garnishee

12 THE STATE OF WASHINGTON TO:
 13 Garnishee

14 AND TO:
 15 Defendant

16 The above-named plaintiff has applied for a writ of garnishment
 17 against you, claiming that the above-named defendant is indebted to
 18 plaintiff and that the amount to be held to satisfy that indebtedness
 19 is \$, consisting of:

20	Balance on Judgment or Amount of Claim	\$
21	Interest under Judgment from to	\$
22	Taxable Costs and Attorneys' Fees	\$
23	Estimated Garnishment Costs:	
24	Filing Fee	\$
25	Service and Affidavit Fees	\$
26	Postage and Costs of Certified Mail	\$
27	Answer Fee or Fees (If applicable)	\$
28	Garnishment Attorney Fee	\$
29	Other	\$

30 YOU ARE HEREBY COMMANDED, unless otherwise directed by the court or
 31 by this writ, not to pay any debt, whether earnings subject to this
 32 garnishment or any other debt, owed to the defendant at the time this
 33 writ was served and not to deliver, sell, or transfer, or recognize any
 34 sale or transfer of, any personal property or effects of the defendant
 35 in your possession or control at the time when this writ was served.
 36 Any such payment, delivery, sale, or transfer is void to the extent

1 necessary to satisfy the plaintiff's claim and costs for this writ with
2 interest.

3 YOU ARE FURTHER COMMANDED to answer this writ by filling in the
4 attached form according to the instructions in this writ and in the
5 answer forms and, within twenty days after the service of the writ upon
6 you, to mail or deliver the original of such answer to the court, one
7 copy to the plaintiff or the plaintiff's attorney, and one copy to the
8 defendant, in the envelopes provided.

9 If, at the time this writ was served, you owed the defendant any
10 earnings (that is, wages, salary, commission, bonus, or other
11 compensation for personal services or any periodic payments pursuant to
12 a pension or retirement program), the defendant is entitled to receive
13 amounts that are exempt from garnishment under federal and state law.
14 You must pay the exempt amounts to the defendant on the day you would
15 customarily pay the compensation or other periodic payment. As more
16 fully explained in the answer, the basic exempt amount is the greater
17 of seventy-five percent of disposable earnings or a minimum amount
18 determined by reference to the employee's pay period, to be calculated
19 as provided in the answer. However, if this writ carries a statement
20 in the heading that "This garnishment is based on a judgment or court
21 order for child support," the basic exempt amount is forty percent of
22 disposable earnings.

23 IF THIS IS A WRIT FOR A CONTINUING LIEN ON EARNINGS, YOU MAY DEDUCT
24 A PROCESSING FEE FROM THE REMAINDER OF THE EMPLOYEE'S EARNINGS AFTER
25 WITHHOLDING UNDER THIS WRIT. THE PROCESSING FEE MAY NOT EXCEED TWENTY
26 DOLLARS FOR THE FIRST ANSWER AND TEN DOLLARS AT THE TIME YOU SUBMIT THE
27 SECOND ANSWER.

28 If you owe the defendant a debt payable in money in excess of the
29 amount set forth in the first paragraph of this writ, hold only the
30 amount set forth in the first paragraph and any processing fee if one
31 is charged and release all additional funds or property to defendant.

32 (~~YOUR FAILURE~~) IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED
33 (~~WILL RESULT IN~~), A JUDGMENT ((BEING)) MAY BE ENTERED AGAINST YOU FOR
34 THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH
35 ACCRUING INTEREST((S)), ATTORNEY FEES, AND COSTS WHETHER OR NOT YOU OWE
36 ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY
37 JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT OF ANY NONEXEMPT DEBT
38 OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR
39 CONTROL.

1 IN THE ((SUPERIOR)) COURT
2 OF THE STATE OF WASHINGTON IN AND FOR
3 THE COUNTY OF

4 NO.

5 Plaintiff

6 vs.

7 ANSWER

8 TO WRIT OF

9 Defendant

10 GARNISHMENT

11
12
13 Garnishee Defendant

14 On the date the writ of garnishment was issued by the court as
15 indicated by the date appearing on the last page of the writ, defendant
16 (check one) . . . was . . . was not employed by garnishee; defendant
17 (check one) . . . did . . . did not maintain a financial account with
18 garnishee; and garnishee (check one) . . . did . . . did not have
19 possession of or control over any funds, personal property, or effects
20 of defendant.

21 At the time of service of the writ of garnishment on the garnishee
22 there was due and owing from the garnishee to the above-named defendant
23 \$ (On the reverse side of this answer form, or on an
24 attached page, give an explanation of the dollar amount stated, or give
25 reasons why there is uncertainty about your answer.)

26 If the above amount or any part of it is for personal earnings
27 (that is, compensation payable for personal services, whether called
28 wages, salary, commission, bonus, or otherwise, and including periodic
29 payments pursuant to a pension or retirement program): Garnishee has
30 deducted from this amount \$ which is the exemption to which
31 the defendant is entitled, leaving \$ that garnishee holds
32 under the writ. The exempt amount is calculated as follows:

33	Total compensation due defendant	\$
34	LESS deductions for social security and	
35	withholding taxes and any other	
36	deduction required by law (list	
37	separately and identify)	\$
38	Disposable earnings	\$

39 If the title of this writ indicates that this is a garnishment
40 under a child support judgment, enter forty percent of disposable

1 earnings: \$ This amount is exempt and must be paid to the
2 defendant at the regular pay time after deducting any processing fee
3 you may charge.

4 If this is not a garnishment for child support, enter seventy-five
5 percent of disposable earnings: \$ From the listing in
6 the following paragraph, choose the amount for the relevant pay period
7 and enter that amount: \$ (If amounts for more than one
8 pay period are due, multiply the preceding amount by the number of pay
9 periods and/or fraction of pay period for which amounts are due and
10 enter that amount: \$) The greater of the amounts entered
11 in this paragraph is the exempt amount and must be paid to the
12 defendant at the regular pay time after deducting any processing fee
13 you may charge.

14 Minimum exempt amounts for different pay periods: Weekly
15 \$; Biweekly \$; Semimonthly \$;
16 Monthly \$

17 List all of the personal property or effects of defendant in the
18 garnishee's possession or control when the writ was served. (Use the
19 reverse side of this answer form or attach a schedule if necessary.)

20 An attorney may answer for the garnishee.

21 Under penalty of perjury, I affirm that I have examined this
22 answer, including accompanying schedules, and to the best of my
23 knowledge and belief it is true, correct, and complete.

24
25 Signature of _____ Date _____
26 Garnishee Defendant

28
29 Signature of person _____ Connection with _____
30 answering for _____ garnishee
31 _____
32 garnishee
33

34
35
36 Address of Garnishee

1 **Sec. 5.** RCW 6.27.250 and 1988 c 231 s 32 are each amended to read
2 as follows:

3 (1)(a) If it appears from the answer of the garnishee or if it is
4 otherwise made to appear that the garnishee was indebted to the
5 defendant in any amount, not exempt, when the writ of garnishment was
6 served, and if the required return or affidavit showing service on or
7 mailing to the defendant is on file, the court shall render judgment
8 for the plaintiff against such garnishee for the amount so admitted or
9 found to be due to the defendant from the garnishee, unless such amount
10 exceeds the amount of the plaintiff's claim or judgment against the
11 defendant with accruing interest and costs and attorney's fees as
12 prescribed in RCW 6.27.090, in which case it shall be for the amount of
13 such claim or judgment, with said interest, costs, and fees. In the
14 case of a superior court garnishment, the court shall order the
15 garnishee to pay to the plaintiff through the registry of the court the
16 amount of the judgment against the garnishee, the clerk of the court
17 shall note receipt of any such payment, and the clerk of the court
18 shall disburse the payment to the plaintiff. In the case of a district
19 court garnishment, the court shall order the garnishee to pay the
20 judgment amount directly to the plaintiff. In either case, the court
21 shall inform the garnishee that failure to pay the amount may result in
22 execution of the judgment, including garnishment.

23 (b) If, prior to judgment, the garnishee tenders to the plaintiff
24 or to the court any amounts due, such tender will support judgment
25 against the garnishee in the amount so tendered, subject to any
26 exemption claimed within the time required in RCW 6.27.160 after the
27 amounts are tendered, and subject to any controversion filed within the
28 time required in RCW 6.27.210 after the amounts are tendered. Any
29 amounts tendered to the court by or on behalf of the garnishee or the
30 defendant prior to judgment shall be disbursed to the party entitled to
31 same upon entry of judgment or order, and any amounts so tendered after
32 entry of judgment or order shall be disbursed upon receipt to the party
33 entitled to same.

34 (2) If it shall appear from the answer of the garnishee and the
35 same is not controverted, or if it shall appear from the hearing or
36 trial on controversion or by stipulation of the parties that the
37 garnishee is indebted to the principal defendant in any sum, but that
38 such indebtedness is not matured and is not due and payable, and if the
39 required return or affidavit showing service on or mailing to the

1 defendant is on file, the court shall make an order requiring the
2 garnishee to pay such sum into court when the same becomes due, the
3 date when such payment is to be made to be specified in the order, and
4 in default thereof that judgment shall be entered against the garnishee
5 for the amount of such indebtedness so admitted or found due. In case
6 the garnishee pays the sum at the time specified in the order, the
7 payment shall operate as a discharge, otherwise judgment shall be
8 entered against the garnishee for the amount of such indebtedness,
9 which judgment shall have the same force and effect, and be enforced in
10 the same manner as other judgments entered against garnishees as
11 provided in this chapter: PROVIDED, That if judgment is rendered in
12 favor of the principal defendant, or if any judgment rendered against
13 the principal defendant is satisfied prior to the date of payment
14 specified in an order of payment entered under this subsection, the
15 garnishee shall not be required to make the payment, nor shall any
16 judgment in such case be entered against the garnishee.

17 (3) The court shall, upon request of the plaintiff at the time
18 judgment is rendered against the garnishee or within one year
19 thereafter, or within one year after service of the writ on the
20 garnishee if no judgment is taken against the garnishee, render
21 judgment against the defendant for recoverable garnishment costs and
22 attorney fees. However, if it appears from the answer of garnishee or
23 otherwise that, at the time the writ was issued, the garnishee held no
24 funds, personal property, or effects of the defendant and, in the case
25 of a garnishment on earnings, the defendant was not employed by the
26 garnishee, or, in the case of a writ directed to a financial
27 institution, the defendant maintained no account therein, then the
28 plaintiff may not be awarded judgment against the defendant for such
29 costs or attorney fees.

30 NEW SECTION. Sec. 6. A new section is added to chapter 6.27 RCW
31 to read as follows:

32 The judgment on garnishee's answer or tendered funds, and for costs
33 against defendant, and the order to pay funds shall be substantially in
34 the following form:

35 IN THE COURT OF THE STATE OF WASHINGTON IN AND FOR THE
36 COUNTY OF

37 NO.

1 Plaintiff

2 vs.

JUDGMENT AND ORDER

TO PAY

(Clerk's Action Required)

3
4
5

6 Defendant

7

8 Garnishee

9 Judgment Summary

10 Judgment Creditor

11 Garnishment Judgment Debtor

12 Garnishment Judgment Amount

13 Costs Judgment Debtor

14 Costs Judgment Amount

15 Judgments to bear interest at %

16 Attorney for Judgment Creditor

17 IT APPEARING THAT garnishee was indebted to defendant in the
18 nonexempt amount of \$; that at the time the writ of
19 garnishment was issued defendant was employed by or maintained a
20 financial institution account with garnishee, or garnishee had in its
21 possession or control funds, personal property, or effects of
22 defendant; and that plaintiff has incurred recoverable costs and
23 attorney fees of \$. . . .; now, therefore, it is hereby

24 ORDERED, ADJUDGED, AND DECREED that plaintiff is awarded judgment
25 against garnishee in the amount of \$. . . .; that plaintiff is awarded
26 judgment against defendant in the amount of \$ for
27 recoverable costs; that, if this is a superior court order, garnishee
28 shall pay its judgment amount to plaintiff through the registry of the
29 court, and the clerk of the court shall note receipt thereof and
30 forthwith disburse such payment to plaintiff; that, if this is a

1 district court order, garnishee shall pay its judgment amount to
2 plaintiff directly or through plaintiff's attorney, and if any payment
3 is received by the clerk of the court, the clerk shall forthwith
4 disburse such payment to plaintiff. Garnishee is advised that the
5 failure to pay its judgment amount may result in execution of the
6 judgment, including garnishment.

7 DONE IN OPEN COURT this day of , 20. .

8
9 Judge/Court Commissioner

10 Presented by:

11
12 Attorney for Plaintiff

13 **Sec. 7.** RCW 6.27.320 and 1969 ex.s. c 264 s 31 are each amended to
14 read as follows:

15 In any case where garnishee has answered that it is holding funds
16 or property belonging to defendant and plaintiff shall obtain
17 satisfaction of ((his)) the judgment and payment of recoverable
18 garnishment costs and attorney fees from a source other than the
19 garnishment, upon written demand of the defendant or the garnishee, it
20 shall be the duty of plaintiff to obtain an order dismissing the
21 garnishment and to serve it upon the garnishee within twenty days after
22 the demand or the satisfaction of judgment and payment of costs and
23 fees, whichever shall be later. In the event of the failure of
24 plaintiff to obtain and serve such an order, if garnishee continues to
25 hold such funds or property, defendant shall be entitled to move for
26 dismissal of the garnishment and shall further be entitled to a
27 judgment against plaintiff of one hundred dollars plus defendant's
28 costs and damages. Dismissal may be on ex parte motion of the
29 plaintiff.

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