

# SENATE BILL REPORT

## SHB 1531

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As of March 18, 2019

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

**Brief Description:** Concerning medical debt.

**Sponsors:** House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Jinkins, Walen, Orwall, Cody, Robinson, Riccelli, Valdez, Ormsby and Macri).

**Brief History:** Passed House: 3/01/19, 90-4.

**Committee Activity:** Law & Justice: 3/14/19.

### Brief Summary of Bill

- Lowers the prejudgment interest rate on medical debt to 9 percent and prohibits the sale or assignment of medical debt to a collection agency until 120 days after the initial bill statement is sent to the patient or responsible party.
- Outlines requirements for collection agencies when collecting medical and hospital debt, including the provision of itemized statements, delayed reporting of a medical debt to a credit bureau for 180 days, and mandatory notification of a debtor's possible qualification for charity care.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Shani Bauer (786-7468)

**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. Prejudgment interest 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. Post judgment 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 generally bear interest at the rate of 12 percent.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Enforcement. A creditor may seek enforcement of a debt owed by a debtor through execution, attachment, or garnishment of the debtor's property. Execution is the process for enforcing a court judgment for the payment of money or property by levying on the judgment 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. 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 ten years from the date of judgment, and for an additional ten years if the judgment is extended within 90 days of the end of the initial ten 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. Supplemental proceedings provide creditors with a mechanism for questioning a debtor about the property the debtor owns and where it is located. If the debtor does not appear as requested, the court may issue a warrant for the debtor's arrest.

Collection Agencies. At the state level, debt collection agencies are regulated by the Collection Agency Act (CAA). The CAA creates a licensing system for collection agencies, establishes a regulatory board, sets forth prohibited practices, and provides remedies. Claims include any contractual obligation requiring a debtor to make a payment. This includes personal, household, family, and business debts. No person or business may act as a collection agency without first acquiring a license from the Department of Licensing.

The CAA sets forth a number of prohibited practices. For example, collection agencies may not:

- contact a debtor with excessive frequency or at an unreasonable hour;
- publish an individual's debt or share the amount due with a third party; or
- misrepresent themselves when communicating with a debtor.

Violations of these prohibited practices are unfair and deceptive trade practices under the Consumer Protection Act. Individual debtors may file complaints with the collection agencies regulatory board or with the attorney general. Individuals may also bring civil suits against collection agencies for alleged violations of the CAA for injunctive relief and damages.

Health Care. Health care services includes medical, surgical, dental, chiropractic, hospital, optometric, podiatric, pharmaceutical, ambulance, custodial, mental health, or other therapeutic services. Hospitals in Washington are required to have a charity care policy and a sliding fee schedule for indigent persons who are unable to pay for hospital care. Hospitals must prominently display notice of charity care availability in various areas of the hospital and must include standard charity care notification on billing statements.

**Summary of Bill:** Medical debt is defined as an obligation for the payment of money arising out of any agreement or contract, express or implied, for the provision of health care services. Prejudgment interest charged or collected on medical debt may not exceed 9 percent. For

medical debts currently due, interest accruing after the effective date of the act may not exceed 9 percent.

If a judgment debtor fails to comply with supplemental proceedings in relation to a medical debt, the creditor may not seek a warrant for the arrest of the judgment debtor. Medical debt may not be sold or assigned to a collection agency until at least 120 days after the initial billing statement has been transmitted to the patient or other responsible party.

At the time of the first written notice for collection of a medical debt, a collection agency must inform the debtor of the right to request the original account number assigned to the debt, the date of the last payment, and an itemized statement of the debt. Upon request, either orally or in writing, the collection agency must provide the debtor with an itemized statement of the debt free of charge. Until the statement is provided, the collection agency must cease all collection efforts. The itemized statement must include:

- the name and address of the medical creditor;
- the dates of service;
- a statement from the health care provider of the services provided to the patient;
- the amount of principal of the debt;
- any adjustment to the bill such as negotiated insurance rates or other discounts;
- the amount of any payments received;
- any interest or fees; and
- whether the patient was found eligible for charity care or other reductions, and if so, the amount due after the application of charity care or reductions.

If a debtor has entered into a voluntary payment agreement, the debtor must give notice if they want the payment plan discontinued. If no notice is given, the payment plan may continue. Properly executed post judgment writs, including writs of garnishment and execution, are not required to be ceased and second or subsequent requests for information already provided do not require the cessation of collection efforts. A collection agency may not report adverse information to a consumer credit agency or credit bureau until at least 180 days after the original obligation was received by the collection agency for collection.

At the time of the first written notice for collection of hospital debt, a collection agency must include a notice that the debtor may be eligible for charity care from the hospital together with the hospital's contact information. The collection agency may not collect or attempt to collect a claim relating to hospital debt while an application or appeal for charity care is pending.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: Medical debt is the number one cause of bankruptcy. Medical debt is very different than other types of debt because people are not

necessarily aware of how much debt they are accumulating. It is very different than when you purchase something and know the cost up front. It is very difficult to find out ahead of time what the health care cost will be.

One out of ten Washingtonians have a medical debt in collections. This is a primary issue and concern for low income persons. Despite trying to work within a payment plan, medical providers are quick to assign debts for collection. This bill will provide fairness and protection for the people of the state.

OTHER: The bill states the collection agencies may not report the debt to the credit bureau until 180 days have passed since the date of assignment. There is a major national settlement that already addresses this issue. A different standard will cause confusion.

**Persons Testifying:** PRO: Representative Laurie Jenkins, Prime Sponsor; Antonio Ginatta, Columbia Legal Services; Kelsi Hamilton, Washington Collectors Association; Bobbi Miller, citizen.

OTHER: Cliff Webster, Consumer Data Industry Association.

**Persons Signed In To Testify But Not Testifying:** No one.