

HOUSE BILL ANALYSIS

HB 1687

Title: An act relating to wage garnishment.

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

Sponsors: Representatives Sheahan, Delvin, Sheldon, McMorris, L. Thomas, Mielke, Grant, Morris, Benson, D. Schmidt, Alexander, D. Sommers, Johnson, Thompson, Talcott and Boldt.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Trudes Hutcheson (786-7384).

Background: There are several ways to satisfy a judgment or enforce a child support order. A private party can attempt to satisfy a judgment against an obligor by obtaining a civil order to garnish a person's earnings or property. The garnishee is the person who has the obligor's property, and in many cases, is the obligor's employer. To enforce spousal maintenance or child support obligations, a court or the Office of Support Enforcement 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.

Garnishment Orders:

Under the statutes governing the enforcement of judgments, the garnishee receiving a garnishment order is required to answer the order within 20 days. If the garnishee fails to answer the order, the garnishee could be liable for the full amount of the judgment, along with interests and costs, whether or not the garnishee owes anything to the obligor. If found liable, the garnishee can petition the court to reduce the judgment to the amount the garnishee actually owes the employee, or \$100, whichever is more. However, the garnishee may be required to pay reasonable attorney's fees to the garnishor for responding to the petition for a reduction.

Service of the garnishment order upon the garnishee is invalid unless it is served with, among other things, a cash or a check made payable to the garnishee in the amount of \$10. This is generally called an answer fee.—

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.

Spousal Maintenance and Child Support Orders:

The court or the Department of Social and Health Services, Office of Support Enforcement, may issue a wage withholding order or notice of payroll deduction to enforce a spousal maintenance order or child support order. Under recent amendments to the federal law, notice of income withholding must be given to the employer in a standard format prescribed by the Department of Health and Human Services.

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 employee's earnings. The fee must not exceed \$10 for the first disbursement made by the employer and \$1 for each subsequent disbursement.

When the Office of Support Enforcement issues a notice of payroll deduction to an obligor's employer, or upon the Employment Security Department if the obligor is receiving unemployment compensation benefits, the employer or the Employment Security Department must remit the required amounts to the Washington State Support Registry on each date the obligor is due to be paid.

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 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. The employer is also liable for 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 generally required to notify the court if the obligor is no longer employed at that location or if the obligor 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 period is longer. If the obligor returns to the employer during that period, the employer is required to immediately begin withholding the obligor's wages according to the terms of the order.

Summary of Bill: The Legislature finds that wage garnishment orders create an administrative burden for employers. It is not the Legislature's intent to interfere in the employer/employee relationship.

Garnishment Orders:

An employer who fails to respond to a garnishment order may be liable for the full amount of the obligation with accruing interests and costs, but not to exceed \$100 for the first offense and \$250 for each subsequent offense. The employer is not subject to contempt by imprisonment.

The amount payable to the employer upon service of a garnishment order is raised from \$10 to \$30.

Spousal Maintenance and Child Support Orders:

If the employer fails to respond to a wage withholding order to enforce spousal maintenance or child support, the employer will be liable for the amount of the debt or \$100, whichever is less. The employer may still be liable for costs, interests, and reasonable attorney fees. The processing fees the employer may deduct from the employee's wages are raised from \$10 to \$30 for the first disbursement, and from \$1 to \$5 for each subsequent disbursement.

When receiving a wage assignment order for an obligor who is no longer employed there, the employer will only need to hold the order until the employer no longer possesses any earnings owed to the obligor. The employer is not required to hold the wage assignment order for a one-year period or begin immediate withholding if the obligor returns to the employment within that period.

An employer or the Employment Security Department that receives a notice of payroll deduction from the Office of Support Enforcement must remit payment into the Washington State Support Registry within 10 days after the notice is received, instead of on each date the obligor is due to be paid. The Office of Support Enforcement will make electronic deposit available for employers and the Employment Security Department. If the employer fails or refuses to respond to the order or to withhold wages, the employer is subject to a penalty of no more than \$100 for the first offense and \$250 for each subsequent offense.

Miscellaneous:

The Collection Agency Division of the Department of Licensing, the collection agency representatives, and the Office of the Attorney General must work together to establish a standard self-duplicating form to be used for wage garnishment orders.

A joint task force is created to study the employment reporting requirements and develop a form that collects all information required by the state for all employee reporting. The task force consists of members appointed by the Office of Support Enforcement, Employment Security Department, Department of Labor and Industries, Department of Revenue, and three members appointed by business organizations representing a variety of industries statewide. The task force must report to the Legislature by February 1, 1998.

Fiscal Note: Not requested.

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

Office of Program Research