

# SENATE BILL REPORT

## ESSB 5173

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As Amended by House, April 7, 2023

**Title:** An act relating to property exempt from execution.

**Brief Description:** Concerning property exempt from execution.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Stanford, Hasegawa, Kuderer, Pedersen, Saldaña and Trudeau).

**Brief History:**

**Committee Activity:** Law & Justice: 1/17/23, 1/19/23 [DPS, DNP, w/oRec].

**Floor Activity:** Passed Senate: 2/1/23, 29-19.

Passed House: 4/7/23, 67-30; 4/7/23, 65-32.

### Brief Summary of Engrossed First Substitute Bill

- Increases the value limit for certain exemptions of personal property from execution, attachment, and garnishment.
- Clarifies that in the case of married persons, each spouse is entitled to the exemptions of personal property from execution, attachment, and garnishment.
- Requires that each dollar amount be adjusted every three years, beginning April 1, 2026, by the Department of Revenue to reflect changes in the consumer price index seasonally adjusted for all urban consumers, all items, for the United States, as calculated by the United States Bureau of Labor Statistics.
- Exempts worker's compensation payments from execution, attachment, or garnishment.

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## SENATE COMMITTEE ON LAW & JUSTICE

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** That Substitute Senate Bill No. 5173 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon and Valdez.

**Minority Report:** Do not pass.

Signed by Senators Torres, Wagoner and Wilson, L..

**Minority Report:** That it be referred without recommendation.

Signed by Senators Padden, Ranking Member; McCune.

**Staff:** Tim Ford (786-7423)

**Background:** 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 legal process for enforcing a court judgment for the payment of money or property by levying on the judgment debtor's property.

Attachment is a legal 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 is a legal process by which a judgment creditor may recover funds owed by a judgment debtor by compelling third parties to divert to the creditor certain funds owned by or owed to the debtor, such as funds held in the debtor's bank accounts or the debtor's wages held by an employer.

Washington law entitles individual debtors or households to claim certain property as exempt from execution, attachment, and garnishment:

- all wearing apparel of every individual and family, but not to exceed \$3,500 in value in furs, jewelry, and personal ornaments for any individual;
- all private libraries including electronic media, but not to exceed \$3,500 in value;
- a cell phone, personal computer, and printer;
- to each individual or household, household goods, appliances, furniture, and home and yard equipment not to exceed \$6,500 in value for individuals or \$13,000 for households, where no single item exceeds \$750 in value;
- to each individual or household, other personal property, except personal earnings, not to exceed \$3,000 in value of which not more than \$1,500 in value may consist of cash;
- for an individual, a motor vehicle used for personal transportation, not to exceed \$3,250;
- for a household, two motor vehicles used for personal transportation, not to exceed \$6,500 in aggregate value;
- any past due, current, or future child support paid or owed to the debtor;

- all professionally prescribed health aids for the debtor or a dependent of the debtor;
- to any individual, the right to or proceeds of a payment not to exceed \$20,000 on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent, or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent;
- to an individual farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed \$10,000 in value;
- to a physician, surgeon, attorney, member of the clergy, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed \$10,000 in value;
- to any other individual, the tools and instruments and materials used to carry on their trade, not to exceed \$10,000 in value; and
- tuition units, purchased more than two years prior to the date of bankruptcy filing or court judgment.

No money paid or payable under worker's compensation shall, before the issuance and delivery of the payment, be assigned, charged, or taken in execution, attached, or garnished, or pass or be paid to any other person.

**Summary of Engrossed First Substitute Bill:** An individual may claim the following property as exempt from execution, attachment, and garnishment:

- all wearing apparel of every individual and family, but not to exceed \$3,500 in value in furs, jewelry, and personal ornaments for any individual;
- all private libraries including electronic media, but not to exceed \$3,500 in value;
- a cell phone, personal computer, and printer;
- all household goods, appliances, furniture, and home and yard equipment not to exceed \$6,500 for the individual;
- in a bankruptcy case, any other personal property, except personal savings, not to exceed \$10,000 in value determined as of the date the bankruptcy petition is filed;
- other than in a bankruptcy case, other personal property, except personal earnings, not to exceed \$3,000 in value;
- a motor vehicle not to exceed \$15,000 in aggregate value;
- any past due, current, or future child support paid or owed to the debtor;
- all professionally prescribed health aids for the debtor or a dependent of the debtor;
- to any individual, the right to or proceeds of a payment not to exceed \$20,000 of personal bodily injury of the debtor or an individual of whom the debtor is a dependent, or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent;
- in a bankruptcy case, the right to or proceeds of personal injury of the debtor or an individual of whom the debtor is a dependent, or, the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent which will be free of the enforcement of the claims of creditors, except to the extent such claims are for the satisfaction of any

- liens or subrogation claims arising out of the claims for personal injury or death;
- the tools, instruments, materials, and supplies used to carry on their trade not to exceed \$15,000 in value; and
- tuition units, purchased more than two years prior to the date of bankruptcy filing or court judgment.

In the case of married persons, each spouse is entitled to the exemptions of personal property, which may be combined with the other spouse's exemption in the same property or taken in different exempt property.

Every three years, beginning on April 1, 2026, each dollar amount shall be adjusted by the Department of Revenue to reflect the change in the consumer price index seasonally adjusted for all urban consumers, all items, for the United States as calculated by the United States Bureau of Labor Statistics, rounded to the nearest \$25.

No money paid or payable under worker's compensation shall be assigned, charged, or taken in execution, attached, or garnished, or pass or be paid to any other person. Worker's compensation payments will retain their exempt status even after issuance.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill will provide some additional protection for injured workers who are facing bankruptcy. People in this position are incredibly vulnerable and are dealing with difficult circumstances. This bill brings more fairness to the treatment of married couples so both spouses can independently make decisions about the exemptions they choose to use. When families are facing difficult financial times, it creates a strain on the relationship and sometimes it is difficult for couples to work together to choose their exemptions. It's more fair that each person has their own exemption rather than having a penalty for being a couple. This bill recognizes that the value of used cars has skyrocketed in the past couple of years and cars are often extremely important for families to maintain employment and get around. This will amend the outdated and deficient personal property exemption laws. This bill helps individuals, families, single mothers, and small business owners in Washington who depend on these provisions in times of financial strain and crisis. This bill doubles the personal property exemption from a married couple and updates antiquated marriage property laws to show women have equal financial footing under the law. This bill addresses exemptions for personal property, personal injury, and workers compensation payments. This legislation

makes sure that debtors have a secure place to keep money for rent, utilities, and have food security. 420,000 renters in Washington are surviving primarily on debt through credit cards and payday loans.

Creditors know how to protect themselves from this. They know how to sue a debtor, obtain a judgement, and secure their claims against the debtor's assets. They also increase interest rates to protect against bankruptcy and default. This bill is tailored to keep a balance between creditors and debtors intact.

CON: This bill goes further than it needs to, specifically in the marital doubling. A bill was negotiated two or three years ago that tripled or quadrupled most of these exemption amounts, largely to account for family purposes, not for an individual. The pandemic came through shortly after that passed and there was a halt on all garnishments. There has barely been a year of these new exemption levels being in effect. Doubling that now seems excessive and unnecessary. The automatic increases are a pain point. The most important function of the Legislature is to keep their finger on the pulse of the state and to give careful consideration to the laws that are passed that affect those citizens over time. This doesn't do that because of the automatic inflator, and that is a step in the wrong direction. The index being used is the highest inflation index that you can look to. Anybody who doesn't live in the Seattle or Tacoma area gets burdened by that. This bill will have the unintended consequence of restricting liquidity and will harm consumers who need services, but are unable to pay cash up front.

OTHER: The increases in the personal property exemptions are modest. Outdated laws put financial stability out of reach for many at a time when they need it most. Personal property exemptions protect certain amounts of money in a bank account, vehicles, and other necessities from garnishment and seizure, so families are not wiped out financially when a creditor collects on a judgement. During and following the Covid 19 pandemic, increasing numbers of Washington families struggling with debt have relied on these exemptions to protect their property from creditors. Having a car can be a critical lifeline to getting and maintaining a job. The existing protections to protect a car from seizure is \$3,250. This is outdated, and the proposed update increasing that to \$15,000 reflects the current average value of a car. The doubling of the exemptions for marital community; this statute is antiquated and needs to be updated to reflect that the marital community consists of two people.

**Persons Testifying:** PRO: Senator Derek Stanford, Prime Sponsor; John Webber, Washington State Association for Justice; Shaun Scott; Emilie Padiernos; Christina L. Henry, Northwest Consumer Law Center, Board Member; Mark Fredrich, Prosperity Real Estate, LLC.

CON: Justin Murphy, Washington Collectors Association; Sonia Gibson, Receivables Management Association International (RMAI); Mindy Chumbley, WA Collector's Assn; Kevin Underwood, Washington Collectors Assn.

OTHER: Fadi Assaf, Northwest Justice Project.

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

**EFFECT OF HOUSE AMENDMENT(S):**

- Removes provisions requiring an automatic adjustment of exemption amounts every three years based on the Consumer Price Index.
- Modifies the garnishment writ form sent to garnishees by adding instruction to double automatic exemption values for specified funds if the garnishee has documentation that the funds in the account are the community property of married persons or domestic partners.
- Modifies the garnishment notice and exemption claim form sent to debtors by:
  1. rewording the notice of exemptions language and adding language regarding the doubled value of specific exemptions for marital communities and domestic partnerships;
  2. moving debt-specific exemption claims into their own subsection separate from payment-specific exemptions, and listing the doubled value for marital communities and domestic partnerships;
  3. adding a subsection allowing a debtor to declare under penalty of perjury they are married and wish to use a marital exemption; and
  4. removing the signature line for a spouse and moving the debtor's signature line to the end of each form.