

# SENATE BILL REPORT

## SB 6032

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As Reported By Senate Committee On:  
Judiciary, February 6, 2004

**Title:** An act relating to the liability of a spouse for the acts of the other spouse.

**Brief Description:** Revising the liability of a spouse for the acts of the other spouse.

**Sponsors:** Senators Parlette and McCaslin.

**Brief History:**

**Committee Activity:** Judiciary: 1/30/04, 2/6/04 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6032 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson, Kline, Roach and Thibaudeau.

**Staff:** Lidia Mori (786-7755)

**Background:** Community debt is the debt that is incurred during a marriage or a quasi-marital relationship and it exists as long as the "marital community" exists. Community property is property that is acquired after marriage by either the husband or wife, or both. During the marital relationship, either spouse may also incur debts that are the separate obligation of one spouse if they are not incurred on behalf of or for the benefit of the marital community. When a couple divorces, the court will divide the community property and community debts. No matter which party is assigned to pay the community debt, both parties remain liable to a creditor for it. If the party assigned to pay a community debt fails to do so, the creditor retains the ability to seek payment from the other party.

**Summary of Substitute Bill:** It is an affirmative defense for a spouse asserting that a debt incurred during the marriage is not a community debt, that the debt was incurred without that spouse's knowledge or consent and no community benefit was realized. The burden of proof is on the spouse asserting lack of knowledge and benefit. The party seeking to hold the nonconsenting spouse liable has the burden of proof as to all other issues.

**Substitute Bill Compared to Original Bill:** The substitute makes it an affirmative defense of a spouse asserting that a debt incurred during the marriage is not a community debt because it was incurred without that spouse's knowledge or consent and no community benefit was realized. It is specified that the party seeking to hold the nonconsenting spouse liable has the burden of proof as to all other issues.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** This legislation states what some case law states now but courts still look to both spouses if the debt was incurred during marriage. It's good to have it in statute because it makes the courts look at the debt more closely. This is a fairness issue.

**Testimony Against:** In dissolution situations, a divorce decree only affects the parties; creditors are not bound by it. Medical debt would be affected by this bill; the other spouse would have to be there to give consent.

**Testified:** Senator Linda Parlette, prime sponsor; Rick Bartholomew, Family Law Section WA State Bar Assn (pro); Patricia Encinas, Credit Bureau of Island County (con); Judy Warnick, WA Collectors Assn (con).