

SENATE BILL REPORT

SB 5592

As Reported By Senate Committee On:
Judiciary, February 28, 2003

Title: An act relating to garnishments.

Brief Description: Allowing attorney issued garnishments and simplifying garnishment answer forms.

Sponsors: Senators Mulliken, Eide, Johnson, Haugen, Sheahan and McCaslin.

Brief History:

Committee Activity: Judiciary: 2/26/03, 2/28/03 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5592 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: The clerks of the superior courts and district courts issue writs of garnishment for the benefit of a judgment creditor who has an unsatisfied judgment in the court where the garnishment is sought. The judgment creditor or plaintiff applies for the writ by affidavit and pays a fee to the court clerk. In district court, the plaintiff gives the defendant copies of the application for the writ, the writ, and the exemption documents. In superior court, a copy of the underlying judgment is given to the defendant, instead of the application for the writ.

A defendant may claim exemptions from garnishment and, if the plaintiff elects not to object to the exemptions, he or she must obtain a court order directing the garnishee to release the portion of the debt or property covered by the exemption claim.

A garnishee that has allowed a default judgment to be taken against it for failure to answer a writ can move to reduce the judgment amount within seven days of the time it is garnished.

Proponents of this bill believe allowing attorneys to issue writs of garnishment would reduce delays in the garnishment process and give court clerks more time to attend to other duties.

Summary of Substitute Bill: Writs of garnishment may be issued by the attorney of record for the judgment creditor. The effect of the writ is the same as one issued by a clerk of district court. In district court, the plaintiff must supply the defendant with a copy of the affidavit submitted in application for the writ, a copy of the writ, and the exemption documents.

If a defendant claims exemptions from a garnishment, the attorney for the plaintiff may authorize the release of claimed exempt funds or property instead of having to obtain a court order. The form of the answer to the writ of garnishment is a simple, worksheet format.

A garnishee that has allowed a default judgment to be taken against it for failure to answer a writ can move to reduce the judgment amount within seven days of the first time it is garnished.

Substitute Bill Compared to Original Bill: In district court, writs of garnishment may be issued by the attorney of record for the judgment creditor. The answer form for garnishees is amended to show that "disposable earnings" includes periodic payments pursuant to a nongovernmental pension or retirement program.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Garnishment is a post judgment remedy. This bill removes the requirement that an attorney go to court to get the writ of garnishment. It also simplifies the answer form for employers. This bill will help overburdened courts.

Testimony Against: Superior courts should be removed from this bill; delays are only occurring in district courts. Superior courts are courts of permanent record and they deal with judgments of substantial weight. Clerks provide a check and balance and give extra protection to creditors and debtors.

Testified: Kevin Underwood, WA Collector's Assn. (pro); Dave Quigley (pro); Debbie Wilke, WA Assn. of County Officials (con to original bill).