

HOUSE BILL REPORT

HB 2176

As Reported by House Committee On: Judiciary

Title: An act relating to extending the time to enforce civil judgments for damages caused by impaired drivers.

Brief Description: Extending the time to enforce civil judgments for damages caused by impaired drivers.

Sponsors: Representatives Goodman, Hope, Dunshee, Kelley and Fitzgibbon.

Brief History:

Committee Activity:

Judiciary: 1/18/12, 1/19/12 [DPS].

Brief Summary of Substitute Bill

- Extends the time to enforce civil judgments for damages caused by impaired drivers.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Hansen, Kirby, Klippert, Orwall and Roberts.

Minority Report: Do not pass. Signed by 4 members: Representatives Shea, Assistant Ranking Minority Member; Eddy, Nealey and Rivers.

Staff: Omeara Harrington (786-7136).

Background:

There are several kinds of economic damages recoverable for personal injury, including damages for physical pain, various forms of mental suffering and anguish, actual loss of earnings and impairment of earning capacity, medical expenses, physical disability, and other expenses incurred because of the injuries.

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.

Washington's wrongful death statute provides that when the death of a person is caused by the wrongful act of another, his or her personal representative may maintain an action for damages against the person causing the death. The measure of damages is the actual pecuniary loss suffered by the surviving beneficiaries from the death of their relative, including loss of services, love, affection, care, companionship, and consortium. Washington's special survival statute (also known as the death by personal injury statute) allows the executor or administrator of a decedent's estate to recover the damages the decedent would have been entitled to had they not died, including any pain and suffering between the time of the injury and the time of death.

Civil judgments expire 10 years from the date of entry. A party who has been awarded a judgment, or the assignee or current holder of the judgment award, may apply to the court where the judgment was rendered within 90 days of expiration of the original 10-year period for an extension. The extension gives the party, or assignee, or current holder an additional 10 years during which an execution, garnishment, or other legal process may be issued. Applications are granted as a matter of right, subject to review only for timeliness, factual issues of full or partial satisfaction, or errors in calculating the judgment summary amount. With some limited exceptions, no judgment is enforceable for a period exceeding 20 years from the original date of entry.

Certain debts are non-dischargeable in bankruptcy. For instance, fines for violating the law, such as traffic tickets and court-ordered criminal restitution, are non-dischargeable debts. Judgments for damages related to injury caused by a debtor's operation of a motor vehicle while legally intoxicated are also not dischargeable in bankruptcy.

Summary of Substitute Bill:

A process is created by which holders of civil judgments for death or personal injury caused by a judgment debtor's impaired driving may extend the time to enforce the damage award beyond the normal 10-year statute of limitations.

At any time before the expiration of the judgment, the judgment creditor, assignee, or current holder of a civil judgment for damages caused by an impaired driver may petition the court for an extension of the time limit for execution of the judgment. The court will grant the petition as a matter of right, subject to review for timeliness, factual issues of full or partial satisfaction, or errors in calculating the judgment summary amount. The court may also review relevant records or documents to determine if the judgment is pursuant to death or personal injury caused by the judgment debtor driving under the influence of alcohol or drugs.

The order granting extension will not contain an expiration date and will specify that the judgment is extended until it is satisfied. A lien based upon an underlying judgment that has been extended under this act continues in force until the judgment is satisfied or the lien is removed, whichever occurs first. The holder of the judgment does not need to petition for a general 10-year extension prior to seeking an extension under this act.

Venue is proper in the court that rendered the judgment, or, if a foreign judgment, the court in which the foreign judgment was filed. The petitioner must pay a filing fee equal to the filing fee for the issuance of a 10-year extension of a civil judgment. However, this fee is included in the judgment summary and is a recoverable cost.

All applicable judgments currently in effect on or after the effective date of this section are eligible for this extension, aside from judgments that have been satisfied, vacated, or quashed.

Additionally, reference to "a water rights statement" under RCW 90.03.180 was changed to instead refer to "an adjudication claim." This reflects a technical adjustment made to reconcile language with changes made under a 2009 law.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that the filing fee for extension of a civil judgment for death or personal injury caused by an impaired driver is to match the filing fee for the issuance of a 10-year extension of a civil judgment.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill provides a process whereby those who are owed a civil judgment as a result of having been injured by a drunk driver can collect their judgment. Any such judgment would be inextinguishable. There are drunk drivers who have killed and been held liable in civil matters for wrongful death, and have been moving their money around to avoid paying their civil judgments. One person killed a woman's husband and almost killed her and now he is putting his money in his girlfriend's name and lives on lakefront property. He has assets, but nobody has been able to get at them. This sends the message that you cannot hide forever.

(With concerns) Some technical amendments may smooth out the administrative process for clerks of superior courts.

(Opposed) None.

Persons Testifying: (In support) Representative Goodman, prime sponsor.

(With concerns) James McMahan, Washington Association of County Officials.

Persons Signed In To Testify But Not Testifying: None.