

who is not a patient under the age of sixty-five years in an institution for mental disease or tuberculosis and who is not a patient in a medical institution because of the diagnosis of psychosis or tuberculosis; and (4) who is a resident of the state of Washington.

NEW SECTION. Sec. 2. The department of public assistance is hereby directed to allocate the sum of three hundred thousand dollars or as much thereof as is necessary from the general fund appropriation as provided for in Substitute House Bill No. 33 (Chapter . . . , Laws of 1970), to be employed to pay medical costs of indigent prisoners of county and city jails or juvenile facilities in accordance with eligibility standards to be developed by the department.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

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CHAPTER 61
[Engrossed Senate Bill No. 266]
GARNISHMENTS

AN ACT Relating to garnishments; reenacting section 5, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.050; amending section 8, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.080; amending section 13, chapter 264, Laws of 1969 ex. sess. and RCW 7.33-.130; amending section 19, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.190; amending section 28, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.280; amending section 34, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.340; and adding new sections to chapter 264, Laws of 1969 ex. sess. and to chapter 7.33 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 5, chapter 264, Laws of 1969 ex.sess. and RCW 7.33.050 are each reenacted to read as follows:

When the foregoing requisites have been complied with the clerk shall docket the case in the name of the plaintiff as plaintiff and of the garnishee as defendant, and shall immediately issue a writ of garnishment, in such form as provided in RCW 7.33.110, directed to the garnishee, commanding him to answer said writ on forms served with and complying with RCW 7.33.150 within twenty days after the service of the writ upon him.

Sec. 2. Section 8, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.080 are each amended to read as follows:

The writ of garnishment provided for in RCW 7.33.060 through 7.33.080 shall be served in the same manner and upon the same officer as is required and provided by law for service of summons upon the commencement of a civil action against the state, county, city, town, school district, or other municipal corporation, as the case may be; and forms and envelopes shall be served with the writ as provided in RCW (~~7.33.110~~) 7.33.130.

Sec. 3. Section 28, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.280 are each amended to read as follows:

~~((The greater of--(1)-Forty-times-the-state-hourly-minimum wage-or-(2)-seventy-five-percent-of-the-disposable-earnings-of-the defendant-shall-be-exempt-from-garnishment;-whether-such-earnings are-paid;-or-to-be-paid;-weekly;-monthly;-or-at-other-regular-intervals;-and-whether-there-be-due-the-defendant-earnings-for-one-week or-for-a-longer-period.))~~ If the garnishee is an employer owing the defendant wages, salary, or other compensation for personal services, then for each week of such wages, salary or other compensation, the following amounts shall be exempt from garnishment: the greater of (1) forty times the state hourly minimum wage or (2) seventy-five per cent of the disposable earnings of the defendant. Such exemption shall apply whether such earnings are paid, or to be paid, weekly, monthly, or at other intervals, and whether there be due the defendant earnings for one week, a portion thereof, or for a longer period. The term "disposable earnings" means that part of the earnings of any

individual remaining after the deduction from those earnings of any amount required by law to be withheld: PROVIDED, That amount deducted from an employee's compensation as contributions toward a participating pension or retirement program established pursuant to a collective bargaining agreement shall not be considered a part of disposable earnings. Unless directed otherwise by the court, the garnishee shall determine and deduct the amount exempt under this section and shall pay this amount to the defendant: PROVIDED FURTHER, That the foregoing exemptions shall not apply in the case of a garnishment for child support if (a) the garnishment is based on a judgment or other court order; (b) the amount stated on the writ does not exceed the amount of two months support payments; and (c) the following language is conspicuously added to the writ of garnishment: "This garnishment is based on a judgment or court order for child support. Hold all funds you owe the defendant up to the amount stated above without regard to any statutory exemption".

Sec. 4. Section 34, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.340 are each amended to read as follows:

In all actions in which a writ of garnishment ((ef-wages)) has been issued by a court and served upon a garnishee, in the event judgment is not entered for the plaintiff on the claim sued upon by plaintiff, and the claim has not voluntarily been settled or otherwise satisfied, the defendant shall have an action for damages against the plaintiff. The defendant's action for damages may be brought by way of a counterclaim in the original action or in a separate action and in the action the trier of fact, in addition to other actual damages sustained by the defendant, may award him reasonable attorney's fees.

NEW SECTION. Sec. 5. There is added to chapter 264, Laws of 1969 ex. sess. and to chapter 7.33 RCW a new section to read as follows:

A plaintiff or a judgment creditor may obtain a continuing lien on wages by a garnishment pursuant to sections 6 through 9 of

this 1970 amendatory act.

NEW SECTION. Sec. 6. There is added to chapter 264, Laws of 1969 ex. sess. and to chapter 7.33 RCW a new section to read as follows:

Service of the writ shall comply fully with RCW 7.33.130 and, in addition (1) plaintiff shall mark the caption of the writ "continuing lien"; and (2) all answer forms served on employer shall be substantially as follows:

- (1) Where garnishee is an employer:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF _____

Plaintiff,

vs.

NO. _____

Defendant,

) ANSWER TO WRIT OF GARNISHMENT
) (EMPLOYER FORM)

Garnishee.

)

)

At the time of service of the writ of garnishment on the garnishee there was due and owing from the garnishee to the above-named defendant \$_____ for the last pay period. Garnishee has deducted from this amount \$_____ which is the exemption to which the defendant is entitled.

On the reverse side of this answer form, or on a schedule attached hereto, give the following information: (1) An explanation

of the dollar amount stated, or reasons why there is uncertainty about your answer, if deemed necessary; (2) List all of the personal property or effects or funds, other than wages, of defendant in the garnishee's possession or control when the writ was served. GARNISHEE WILL CONTINUE TO HOLD THE NON EXEMPT PORTION OF THE DEFENDANT'S EARNINGS AS THEY ACCRUE THROUGH THE LAST PAYROLL PERIOD ENDING ON OR BEFORE THIRTY DAYS FROM THE EFFECTIVE DATE OF THE WRIT (DATE OF SERVICE OR DATE PREVIOUSLY SERVED WRIT OR WRITS TERMINATES), OR UNTIL THE SUM HELD EQUALS THE AMOUNT STATED IN THE WRIT OF GARNISHMENT OR UNTIL THE EMPLOYMENT RELATIONSHIP TERMINATES WHICHEVER SHALL COME FIRST.

Garnishee (is) (is not) presently holding the nonexempt portion of defendant's wages, salary or other compensations under a previous writ which will terminate not later than _____, 19 ____ . An attorney may answer for the garnishee.

Under penalty or perjury, I affirm that I have examined this answer, including accompanying schedules, and to the best of my knowledge and belief it is true, correct, and complete.

Signature of Garnishee	Date
Signature of person answering for garnishee	Connection with garnishee

In the event plaintiff fails to comply with this section, employer may elect to treat the garnishment as one not creating a continuing lien.

NEW SECTION. Sec. 7. There is added to chapter 264, Laws of 1969 ex. sess. and to chapter 7.33 RCW a new section to read as follows:

(1) In the case of a garnishment of earnings, where the garnishee's answer reflects that the defendant is employed by him, the judgment or balance due thereon as reflected on the writ of garnishment, shall become a lien on earnings due at the time of service of [568]

the writ to the extent that they are not exempt from garnishment, and such lien shall continue as to subsequent nonexempt earnings until the total subject to the lien equals the amount stated on the writ of garnishment or until the expiration of the employer's payroll period ending immediately prior to thirty days after the effective date of the writ as hereafter defined, whichever occurs first, except that such lien on subsequent earnings shall terminate sooner if the employment relationship is terminated if the underlying judgment is vacated, modified, or satisfied in full or if the writ is dismissed.

(2) At the time of the expected termination of the lien, plaintiff shall mail to garnishee four additional copies of the answer form and three additional stamped envelopes addressed as provided in RCW 7.33.130.

(3) Within twenty days of receipt of the second answer form the garnishee shall file a second answer, in the form as provided in section 6 of this 1970 amendatory act, stating the total amount held subject to the garnishment.

NEW SECTION. Sec. 8. There is added to chapter 264, Laws of 1969 ex. sess. and to chapter 7.33 RCW a new section to read as follows:

A lien obtained under section 7 of this 1970 amendatory act shall have priority over any subsequent garnishment lien or wage assignment. Any writ of garnishment served upon an employer pursuant to section 6 of this 1970 amendatory act while a lien imposed by a previous writ is still in effect, shall be answered by employer with a statement that he is holding no funds and with a further statement stating when all previous liens are expected to terminate. Such subsequent writ shall have full effect for thirty days from the termination of all prior liens, or until this is otherwise terminated under section 7 of this act: PROVIDED, That a subsequent writ shall not be effective if a writ in the same cause of action is pending at the time of service of garnishment.

NEW SECTION. Sec. 9. There is added to chapter 264, Laws of 1969 ex. sess., and to chapter 7.33 RCW, a new section to read as follows:

The effective date of a writ of garnishment served under section 6 of this 1970 amendatory act shall be the date of service thereof upon the garnishee, provided that if there are, on that date, liens by virtue of a previous writ or writs, the effective date shall be the date all previous writs terminate.

Sec. 10. Section 19, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.190 are each amended to read as follows:

Should the garnishee fail to make answer to the writ within the time prescribed therein, it shall be lawful for the court, on or after the time to answer such writ has expired, to render judgment by default against such garnishee for the full amount claimed by plaintiff against the defendant, or in case plaintiff has a judgment against defendant, for the full amount of such judgment with all accruing interest and costs: PROVIDED, That upon motion by the garnishee at any time prior to execution, such judgment against garnishee shall be reduced to the amount of any nonexempt funds or property which was actually in the possession of garnishee at the time the writ was served, plus the cumulative amount of the nonexempt earnings subject to the lien provided for in section 7 of this amendatory act, or the sum of one hundred dollars, whichever is more, but in no event to exceed the amount of the judgment against defendant plus all accruing costs, and in addition plaintiff shall be entitled to a reasonable attorney's fee for plaintiff's response to garnishee's motion to reduce said judgment under this proviso.

Sec. 11. Section 13, chapter 264, Laws of 1969 ex. sess. and RCW 7.33.130 are each amended to read as follows:

Service of the writ of garnishment is invalid unless there is served therewith (1) Four answer forms as provided in RCW 7.33.150 together with stamped envelopes addressed respectively to the clerk of the court issuing the writ, the attorney for the plaintiff (or to

the plaintiff if he has no attorney), and the defendant; and (2) Cash, ((a-certified-check)) or a ((cashier's)) check made payable to the garnishee in the amount of ten dollars. The writ of garnishment may be served by the sheriff of the county in which the garnishee lives or it may be served by any citizen of the state of Washington over the age of twenty-one years and not a party to the action in which it is issued in the same manner as a summons in an action is served: PROVIDED, HOWEVER, That where the writ is directed to a bank, banking association, mutual savings bank or savings and loan association maintaining branch offices, as garnishee, the writ must be directed to and service thereof must be made by leaving a copy of the writ with the manager or any other officer or cashier or assistant cashier of such bank or association at the office or branch thereof at which the account evidencing such indebtedness of the defendant is carried or at the office or branch which has in its possession or under its control credits or other personal property belonging to the defendant. In every case where a writ of garnishment is served by an officer, such officer shall make his return thereon showing the time, place and manner of service and that the writ was accompanied by answer forms and addressed envelopes and cash or a check as required by this section, and noting thereon his fees for making such service and shall sign his name to such return. In case such service is made by any person other than an officer, such person shall attach to the original writ his affidavit showing his qualifications to make such service, and that the writ was accompanied by answer forms and addressed envelopes and cash deposit or a check as required by this section, and the time, place and manner of making service, and shall endorse thereon the legal fees therefor.

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