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Court of Appeals
Division III
State of Washington
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No. 369153

THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
(Division III)

STATE OF WASHINGTON

Respondent

v.

PHILLIPPE ANTWAN BAKER

Appellant

AMENDED BRIEF OF APPELLANT

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I. INTRODUCTION

This case presents an issue of statutory construction; namely, whether a judgment for a Legal Financial Obligation (LFO) imposed by a Washington court against a person convicted of a crime is exempt from the judgment renewal requirements of RCW 6.17.020, allowing the judgment to be maintained in perpetuity without any renewal obligation on the part of the State. The plain language of the statute, the relevant legislative history, controlling precedent, and canons of statutory construction require LFO judgments to be renewed like all other judgments.

Appellant, Mr. Baker, is a single parent with disabilities residing in Spokane, Washington. His only sources of income are Supplemental Security Income (SSI) and Temporary Aid to Needy Families (TANF). CP 41. He and his daughter live on an income of 79% of the federal poverty level. CP 38. Mr. Baker - because of poverty and disability - has been unable to pay the LFO judgment entered by the court in 2006. He will never be

eligible for a certificate of discharge and he will never be able to vacate the record of his conviction without satisfying the LFO judgment to the State. However, because Spokane County never renewed its LFO judgment against Mr. Baker, this judgment expired. It is now unenforceable and the trial court erred by finding otherwise.

II. ASSIGNMENTS OF ERROR

Did the superior court make an error of law when it found that Mr. Baker's LFO judgment, and all LFO judgments, are exempt from the renewal requirements of RCW 6.17.020?

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

Are LFO judgments exempt from the mandate of RCW 6.17.020 that judgments be renewed prior to the expiration of each ten-year enforcement period in order to remain collectible?

IV. STATEMENT OF THE CASE

Appellant pleaded guilty to Second Degree Unlawful Possession of a Firearm in 2006. CP 1. At sentencing on January 17, 2006, the court entered a judgment against Mr. Baker for $200 in court costs and a $500 Victim's Penalty Assessment.[1] CP 5. The court also sentenced Mr. Baker to twelve months' total confinement in the Spokane County jail. CP 7. The court record is incomplete regarding Mr. Baker's actual release date, but it was no later than January 17, 2007. CP 58 - 59. The State did not request an extension of the 2006 judgment.

By October 2017, he had paid $655 to the Spokane County Clerk from his SSI and TANF. CP 60. $100 was applied to a "collection charge" and an additional $897.64 in interest was added to the original judgment. *Id.*

On November 15, 2017, he filed with the court a declaration of his inability to pay - showing proof that SSI and

[1] Despite having been charged a "Victim's Penalty Assessment," there is no victim in this case.

needs-based, means-tested public assistance were his only sources of income. CP 37 - 41. On February 14, 2018, the court suspended collection of the LFOs, effective December 2018, and ordered him to provide annual financial declarations and proof of his continued eligibility for SSI from the Social Security Administration in order to continue the suspension. CP 42.

On May 10, 2019, Appellant moved the court for relief from the LFOs and requested issuance of a Certificate of Discharge based on the expiration of the judgment. At the May 22, 2019, hearing on Appellant's motion, the superior court waived Appellant's legal financial obligations, but declined to issue a Certificate of Discharge, stating that would need to be addressed on a different docket. CP 62; VRP 7:2 - 14. On May 28, 2019, the Spokane County Prosecuting Attorney moved for reconsideration of the Order Waiving LFOs. CP 63 - 65. Appellant opposed reconsideration. CP 66 - 69. On June 7, 2019, the court granted the State's motion for reconsideration and denied Appellant's Motion to waive LFOs, reinstating the

judgment against Mr. Baker. CP 70. Appellant timely filed this appeal of the June 7, 2019, Order.

V. ARGUMENT

The superior court erred when it denied Mr. Baker's Motion for Relief from Legal Financial Obligations and for Issuance of a Certificate of Discharge. It erred in not following the unambiguous and clear language of RCW 6.17.020, which requires all LFO judgments to be renewed 10 years after entry or release from prison, whichever is later. The Legislature could have, but did not, create an exemption from RCW 6.17.020 for LFO judgments when it adopted RCW 9.94A.760(5) in 2000. On the contrary, in 2002, when it amended RCW 6.17.020, the Legislature specifically included debt imposed under RCW 9.94A.760, prohibited the state from using any other "legal process"[2] to enforce the debt, and exempted the State from the

[2] "'Other legal process' is a process that involves 'some judicial or quasi-judicial mechanism, though not necessarily an elaborate one, by which control over property passes from one person to another in order to discharge or secure discharge of an allegedly existing or anticipated liability.'" *Wash. State Dep't of Soc. & Health Servs. v. Guardianship Estate*

requirement to pay a renewal of judgment filing fee. Finding that, in the absence of a specific exemption, un-renewed debts are expired and uncollectible is reasonable, authorized by statute, and consistent with Washington jurisprudence and public policy.

A. THE STANDARD OF REVIEW IS DE NOVO FOR ISSUES OF STATUTORY CONSTRUCTION.

The issue in this case is the statutory construction, interpretation and application of RCW 6.17.020(4) in connection with RCW 9.94A.760(5). RCW 9.94A.760(5) was enacted in 2000. In relevant part, it reads as follows:

> For an offense committed on or after July 1, 2000, the court shall retain jurisdiction...for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime.

RCW 9.94A.760(5).

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of Keffeler, 537 U.S. 371, 385, 123 S.Ct. 1017, 154 L.Ed.2d 972 (2003). (Emphasis added.)

RCW 6.17.020(4) was enacted by the Legislature in 2002. In pertinent part, it reads as follows:

> A party who obtains a judgment or order for restitution, crime victims' assessment, or other court-ordered legal financial obligations pursuant to a criminal judgment and sentence, or the assignee...may execute, garnish, and/or have legal process issued upon the judgment or order any time within ten years subsequent to the entry of the judgment and sentence or ten years following the offender's release from total confinement ...The clerk of superior court, or a party designated by the clerk, may seek extension under subsection (3) of this section for purposes of collection.

RCW 6.17.020(4).

The standard of review is *de novo* for questions of law. *Stuckey v. Dep't of Labor & Indus.*, 129 Wn.2d 289, 295, 916 P.2d 399 (1996); *Clausen v. Dep't of Labor & Indus.*, 130 Wn.2d 580, 583, 925 P.2d 624 (1996). In questions of statutory construction, courts are to look to a statute's plain language in order to give effect to legislative intent, giving statutory terms their plain and ordinary meaning. *State v. Shirts*, 195 Wn. App.

849, 381 P.3d 1223 (2016).[3] Courts "must not add words where the legislature has chosen not to include them." *Lake v. Woodcreek Homeowners Ass'n*, 169 Wn.2d 516, 526, 243 P.3d 1283, 1288 (2010).

B. ALL JUDGMENTS EXPIRE AFTER TEN YEARS UNLESS RENEWED.

Judgments that expire due to the passage of time cannot be collected through civil process. RCW 6.17 governs the execution of judgments in Washington. The language of RCW 6.17.020(4) unambiguously applies to LFO debt.

> A party who obtains a judgment or order for restitution, crime victims' assessment, or other court-ordered legal financial obligations pursuant to a criminal judgment and sentence, or the assignee or the current holder thereof, may execute, garnish, and/or have legal process issued upon the judgment or order any time within ten years subsequent to the entry of the judgment and sentence or ten years following the offender's release from total confinement as provided in chapter 9.94A RCW.

[3] Citing *State v. Wentz*, 149 Wn.2d 342, 346, 68 P.3d 282 (2003); *In re Det. of Rogers*, 117 Wn. App. 270, 274, 71 P.3d 220 (2003)). "We avoid a reading that produces absurd results because this court does not presume the legislature intended absurd results." *Id.* (citing *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003)).

> The clerk of superior court, or a party designated by the clerk, may seek extension under subsection (3) of this section for purposes of collection as allowed under RCW 36.18.190, provided that no filing fee shall be required.

RCW 6.17.020(4). (Emphasis added.)

The statute makes clear, unambiguous, and specific reference to RCW 9.94A ("Sentencing Reform Act of 1981" or "SRA"). The Legislature amended the SRA in 2000 to allow LFO debts to be collected "until the obligation is completely satisfied, regardless of the statutory maximum for the crime." RCW 9.94A.760(5). The Legislature last amended RCW 6.17 in 2002. Had the Legislature intended to exempt LFOs from renewal, they would have said so with the change to RCW 6.17. Instead, such monetary judgments owed to the State are specifically included in, and governed by, the 2002 amendment to RCW 6.17.

RCW 6.17.020(3), in pertinent part, states:

> (3) After June 9, 1994, a party in whose favor a judgment has been filed as a foreign judgment or rendered pursuant to subsection (1) or (4) of this

> section ... may, within ninety days before the expiration of the original ten-year period, apply to the court that rendered the judgment ... for an order granting an additional ten years during which an execution, garnishment, or other legal process may be issued ... the order granting the application shall contain an updated judgment summary as provided in RCW 4.64.030 .... The application shall be 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 amounts.

RCW 6.17.020(3). (Emphasis added.)

The Legislature specifically considered the issue and the legislative history shows that the Legislature intended the State to continue using the renewal process outlined in RCW 6.17.020(3).

> Under the current law,[4] a judgment creditor may, within 90 days before the expiration of the 10-year period, apply to the court that issued the judgment for an extension. These provisions apply to all manner of civil judgments and also include restitution or other financial obligations ordered in criminal cases, and both judicial and administrative orders for the payment of accrued child support.

[4] "Under the current law" in 2002 (two years after the Sentencing Reform Act was amended to allow LFOs to be collected beyond 20 years) the Legislature understood that LFOs would continue to be extended in accordance with RCW 6.17.020.

> No filing fee is required when a collection agency or county collection service applies for an extension regarding a court-ordered restitution or other legal financial obligation.

House Bill Report E2SB 5827, March 6, 2002. (*See* Appendix B.)

> Applications to extend the initial period are granted as a matter of right, subject to limited review. No filing fee is required for extension of a criminal restitution judgment. Judgments are not enforceable for a period exceeding 20 years from the date of entry in the original court, except for legal financial obligations and restitution in an adult or juvenile criminal case or child support obligations. Once filed, a recorded judgment lien remains in full force and effect, and retains its original priority, without the need to re-record it after extension."

Senate Bill Report E2SSB 5827, February 6, 2002. (*See* Appendix A.)

In adopting E2SSB 5827, not only did the Legislature foresee and expect that judgments would be renewed, it addressed any perceived hardship on the State by intending to relieve the State of its burden to pay a filing fee.

> (4) A party who obtains a judgment or order for restitution, crime victims' assessment, or other court-ordered legal financial obligations pursuant to a criminal judgment and sentence, or the assignee or the current holder thereof, may execute, garnish, and/or have legal process issued upon the judgment or order any time within ten years subsequent to the entry of the judgment and sentence or ten years following the offender's release from total confinement as provided in chapter 9.94A RCW. The clerk of superior court, or a party designated by the clerk, may seek extension under subsection (3) of this section for purposes collection as allowed under RCW 36.18.190, provided that no filing fee shall be required.

Laws of 2002, Ch. 261, § 1 (underline in original). (*See* Appendix C.)

The Legislature specifically required renewal under RCW 6.17 to extend judgments beyond 10 years and specifically mentions the SRA.

> (7) Except as ordered in RCW 4.16.020 (2) or (3), chapter 9.94A RCW, or chapter 13.40 RCW, no judgment is enforceable for a period exceeding twenty years from the date of entry in the originating court.

Id. (Underline in original.)

The Legislature applied this to all judgments before and after 2002.

> (8) The chapter . . ., Laws of 2002 (this act) amendments to this section apply to all judgments currently in effect on the effective date of this section, to all judgments extended after June 9, 1994, unless the judgment has been satisfied, vacated, and/or quashed, and to all judgments filed or rendered, or both, after the effective date of this section.

Id. (Underline in original.)

1. The State's Failure to Extend the Judgment Renders the Underlying Judgment Unenforceable.

The LFO collection period is not extended automatically. Extension requires an application to the court that rendered the judgment for an order granting an additional ten years. RCW 6.17.020(3). If this renewal process is not completed prior to the elapse of the initial ten-year period, "the judgment expires and the LFOs are unenforceable." *State v. Gossage*, 165 Wn.2d 1, 7, 195 P.3d 525, 527 (2008). The plain meaning of RCW 6.17.020(3) describes the procedure required to extend the collection period. It includes no exemptions, and does not

depend on the date the underlying crime was committed. *See* RCW 6.17.020(3). The State did not complete the statutorily required process to extend Mr. Baker's LFO collection period. Mr. Baker's LFOs are void and unenforceable.

a. The Failure to Renew an LFO Judgment Means that it has Expired and is "Satisfied" for Purposes of RCW 9.94A.760(5).

If the court does not extend the judgment, the judgment expires and the court debt is unenforceable. *State v. Gossage*, 165 Wn.2d 1, 7, 195 P.3d 525, 527 (2008) ("courts must effectuate [clear language], even if it evinces policy choices that we consider to be ill-advised."). Here, the clear language of RCW 6.17.020(4), and the intent of the Legislature, place an affirmative duty on the State to renew LFO judgments every ten years, prior to their expiration. If they choose not to do so - either intentionally or inadvertently - the judgment expires and the State may not revive it. *State v. Gossage* at 7. Constitutionally, states seeking to collect LFOs from defendants may not impose unduly harsh or discriminatory collection terms simply because

the debtor owes the obligation to the State rather than a private creditor. *James v. Strange*, 407 U.S. 128, 92 S.Ct. 2027, 32 L.Ed.2d 600 (1972). Washington law recognizes this principal in its limitations of actions. RCW 4.16.160 ("Limitations ... in this chapter ... apply to actions undertaken in the name ... of the State, in the same manner as actions brought by private parties.") Washington law requires all creditors to renew all judgments in the same way. RCW 4.16.020(2) ("The period ... for the commencement of actions ... shall be ... ten years for ... a judgment or decree of any court ... unless the period is extended under RCW 6.17.020.")

b. The Court Should Waive the Expired LFOs in Mr. Baker's Case Because the Ten-Year Period for Collection Closed on January 17, 2017, and was not Renewed as Required by Law.

It is undisputed that Mr. Baker was released from total confinement no later than January 17, 2007. Therefore, the first ten-year period for collection of his LFOs would have ended no later than January 17, 2017. It also is undisputed that the State

did not file an extension, under RCW 6.17.020(3), prior to January 17, 2017, or at any other time.

The renewal process outlined in RCW 6.17.020(4) must be followed to extend any judgment. The court is authorized by statute to extend the collection period for LFOs an additional ten years for offenses committed before or after July, 2000. An offense committed before July of 2000 may only be extended once, for a maximum of twenty years. Crimes committed after July of 2000 may be enforceable for the lifetime of the offender or until all LFOs are satisfied. *See State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008).

This legislative change to the Sentencing Reform Act's LFO collection language permits the superior court, upon application of the State, to extend collection for ten years at a time, indefinitely. It does not relieve the State or designee from its requirement to seek an extension. It is not mandatory to request an extension ("may seek an extension under subsection (3)"; RCW 6.17.020(4)), but it must be made timely

("application shall be 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 amounts; RCW 6.17.020(3)).

The only statutory difference between LFOs for an offense committed before July 2000 is that the period of collection is limited to twenty years total; the collection period can be extended for one, additional ten-year collection period, after the initial ten years. RCW 6.17.020(4); RCW 9.94A.760(5). Conversely, for criminal law violations occurring after July, 2000, the collection period may be extended "for the lifetime of the offender or until all LFOs are satisfied." *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008). However, the Legislature's amendment of the Sentencing Reform Act to extend the court's jurisdiction for crimes committed after July, 2000, did not relieve the party collecting from its renewal requirement.

It has been more than ten years since the entry of the Judgment and Sentence against Mr. Baker. It has been more than ten years since his release from total confinement for this conviction. The court did not extend the judgment in this case. "[I]f the court does not extend the criminal judgment, the judgment expires and the LFOs are unenforceable." *State v. Gossage*, 165 Wn.2d 1, 7. Therefore, the 10-year collection period for Mr. Baker's LFOs expired no later than January 17, 2017, and Mr. Baker "no longer has any LFOs." *Id.* It does not matter that his offense was committed after July, 2000, because the plain language of RCW 6.17.020 requires extension after ten years and provides no exemption for this renewal requirement.

2. Interpreting the Statutes to Require Extension of Judgment is Consistent with Principles of Statutory Construction and Public Policy.

Even if the statute is subject to more than one reasonable interpretation, any statutory ambiguity should be interpreted in light of the rule of lenity,[5] in favor of the formerly convicted

[5] *City of Seattle v. Winebrenner*, 167 Wn.2d 451, 462, 219 P.3d 686 (2009).

person and the interpretation that allows for the eventual exit from the court debt collection system for people that have been too poor to satisfy even a small judgment after more than a decade. To do otherwise would be to create a system that shackles indigent and disabled people to the criminal justice system until they die.

Such a policy would be directly opposed to the very purpose of the Sentencing Reform Act. Such an interpretation is neither proportionate, nor just, nor commensurate with the punishment imposed on non-indigent persons.[6] It does not protect the public, offer Mr. Baker any opportunity to improve himself, wastes local government resources, and could increase the risk of reoffending.[7]

Such a policy also would function as "other legal process," a perpetual lien on the liberty and security of indigent and disabled persons, serving only to "secure [eventual] discharge of

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[6] RCW 9.94A. 010. "Purpose" of the Sentencing Reform Act.
[7] *Id.*

an allegedly existing or anticipated liability." *Wash. State Dep't of Soc. & Health Servs. v. Guardianship Estate of Keffeler*, 537 U.S. 371, 385, 123 S.Ct. 1017, 154 L.Ed.2d 972 (2003).

VI. CONCLUSION

The Court should reverse the decision of the trial court and remand this case to the superior court with instructions to enter an order finding that the judgment was not extended as required by *Gossage* and RCW 6.17.020(3); find the LFOs listed in Exhibit C expired and are no longer collectible, and issue a certificate of discharge effective on January 17, 2017, in case No. 05-1-02082-3, as provided by RCW 9.94A.637.

Respectfully submitted this 11th day of October, 2019.

NORTHWEST JUSTICE PROJECT

s/ Jefferson Coulter

JEFFERSON COULTER
WSBA #28947
Attorney for Appellant

CERTIFICATE OF SERVICE ON ALL PARTIES

I certify under penalty of perjury under the laws of the State of Washington that on the 3rd day of October 2019, I caused the foregoing document to be filed with the Court of Appeals, Division III, and to be served on the Attorneys of Record, via the Washington State Appellate Courts' Portal.

Additionally, I served the Appellant, Phillippe Antwan Baker, with the same forgoing document at the address listed below on October 11, 3019.

Phillippe Antwan Baker
2527 E. Pacific Ave (G)
Spokane, WA 99202

DATED this 11th day of October 2019, at Spokane, WA.

NORTHWEST JUSTICE PROJECT

s/ Marcy Chicks

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APPENDIX A

SENATE BILL REPORT
SB 5827

As Reported By Senate Committee On:
Judiciary, February 6, 2002

Title: An act relating to enforcement of judgments.

Brief Description: Changing provisions relating to the enforcement of judgments.

Sponsors: Senator McCaslin.

Brief History:
Committee Activity: Judiciary: 2/15/01, 2/26/01 [DPS]; 2/5/02, 2/6/02 [DP2S].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Second Substitute Senate Bill No. 5827 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Kline, Chair; Kastama, Vice Chair; Hargrove, Johnson, Long, McCaslin, Poulsen, Roach and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: A party, in whose favor a judgment has been rendered, by a court of record of this state or district court of this state, may have an execution issued for collection or enforcement of the judgment at any time within ten years of the judgment. The party may apply to have the time extended for an additional ten years. To extend the time within which a party may execute on a judgment, however, the judgment must have been rendered by a court of record of this state and the application must be made to the court that rendered the judgment. See, *Johns v. Erhart*, 85 Wn.App. 607 (1997). There is also some question regarding whether a judgment that has been sold or transferred by operation of law may be extended because the present legal judgment holder may not be the original judgment creditor.

Summary of Second Substitute Bill: Parties with judgments issued by a superior or district court of the counties of this state, the state Court of Appeals, the state Supreme Court, United States bankruptcy courts, United States district courts, United States courts of appeals, the United States Supreme Court, or the courts from foreign states and jurisdictions, may have an execution issued for collection or enforcement of a judgment entered or filed in this state at any time within ten years of the judgment. Judgments from these courts may be extended for an additional ten years upon application to the court that rendered the judgment or where the judgment was filed.

Any current legal owner or holder of a judgment may have execution issued and may apply for extension of the judgment. It is clarified that garnishments and other legal process can also be used to collect the judgment and may be extended. It is clarified that once a district court judgment is transcribed to superior court for enforcement, the superior court judgment is the only one that needs to be extended.

Applications to extend the initial period are granted as a matter of right, subject to limited review. No filing fee is required for extension of a criminal restitution judgment. Judgments are not enforceable for a period exceeding 20 years from the date of entry in the original court, except for legal financial obligations and restitution in a criminal case or child support obligations. Once filed, a recorded judgment lien remains in full force and effect, and retains its original priority, without the need to re-record it after extension.

Substitute Bill Compared to Original Bill: Applications to extend the initial period are granted as a matter of right, subject to limited review. No filing fee is required for extension of a criminal restitution judgment. Judgments are not enforceable for a period exceeding 20 years from the date of entry in the original court.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill merely clarifies current practice. Recent court decisions have dramatically impacted the application of these statutes.

Testimony Against: None.

Testified: PRO: Patrick Layman; Debbie Wilke, Washington Association of County Clerks.

APPENDIX B

HOUSE BILL REPORT
E2SSB 5827

As Passed House:
March 6, 2002

Title: An act relating to enforcement of judgments.

Brief Description: Changing provisions relating to the enforcement of judgments.

Sponsors: By Senate Committee on Judiciary (originally sponsored by Senator McCaslin).

Brief History:
Committee Activity:
Judiciary: 2/26/02, 2/28/02 [DP].
Floor Activity:
Passed House: 3/6/02, 93-0.

Brief Summary of Engrossed Second Substitute Bill

- Expands the law that allows a 10-year extension of the time for enforcing a judgment from a superior court to also cover judgments originating from federal courts, courts of other states, and district courts of this state.
- Allows the assignee or other current owner of a judgment to get a 10-year extension on the enforcement of a judgment in the same manner as the original judgment creditor.
- Clarifies that garnishment and other legal procedures can be used to enforce a judgment that has been extended.
- Provides that an extension must be granted to a judgment creditor as a matter of right, subject to limited review.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Hurst, Vice Chair; Carrell, Ranking Minority Member; Boldt, Dickerson, Esser, Jarrett, Lovick and Lysen.

Staff: Bill Perry (786-7123).

Background:

The statute of limitations for enforcing the judgment of a court is generally 10 years. In 1994, however, the Legislature authorized judgment creditors to seek a 10-year extension on this period. Under the current law, a judgment creditor may, within 90 days before the expiration of the 10-year period, apply to the court that issued the judgment for an extension. These provisions apply to all manner of civil judgments and also include restitution or other financial obligations ordered in criminal cases, and both judicial and administrative orders for the payment of accrued child support.

The current extension provision is limited to judgments from "courts of record of this state." It also authorizes an extension only for "a party in whose favor a judgment has been rendered." Courts have held that these provisions mean that extensions cannot be applied for if the judgment is from a federal court, or if the judgment is currently held by someone other than the original judgment creditor.

Summary of Engrossed Second Substitute Bill:

The class of courts whose judgments may be extended for an additional 10 years is expanded to include not just "courts of record of this state," but also:

- The U.S. Supreme Court, courts of appeal, district courts, and bankruptcy courts;
- The Washington State Supreme Court, courts of appeal, superior courts, and district courts; and
- courts from other states and jurisdictions whose judgments have been filed in a Washington court.

The assignee or other current holder of a judgment may seek an extension of the 10-year statute of limitations.

Garnishment or "other legal process" are explicitly included as enforcement mechanisms that may be used by a judgement creditor during the original 10-year period of limitation and during an extension.

Generally, judgments are not enforceable beyond 20 years past the date of entry of the judgment in the originating court. However, the 20-year limit does not apply to judgments for child support or to court-ordered legal obligations in adult or juvenile criminal cases. Extensions under Washington law do not operate to extend the expiration date of foreign judgments beyond the date applicable in the jurisdiction of origin.

An application for an extension must be granted as a matter of right, subject to review only on questions of timeliness of the application, factual dispute over whether or how much of the debt is still owed, or errors in calculating the judgment summary amounts.

A properly filed and recorded judgment lien does not need to be re-recorded upon the extension of the judgment, and the lien retains its original priority position.

No filing fee is required when a collection agency or county collection service applies for an extension regarding a court-ordered restitution or other legal financial obligation.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: The bill appropriately treats the judgements of all courts the same, by allowing the judgement of any court to be extended in the same way as the judgement of a superior court.

Testimony Against: None.

Testified: Patrick Layman, Bishop, Lynch, and White Attorneys.

APPENDIX C

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5827

Chapter 261, Laws of 2002

57th Legislature
2002 Regular Session

JUDGMENT ENFORCEMENT

EFFECTIVE DATE: 6/13/02

Passed by the Senate February 16, 2002
YEAS 46 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 6, 2002
YEAS 93 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5827** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

Secretary

Approved March 29, 2002

GARY LOCKE

Governor of the State of Washington

FILED

March 29, 2002 - 3:56 p.m.

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5827

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senator McCaslin)

READ FIRST TIME 02/08/2002.

1 AN ACT Relating to enforcement of judgments; and amending RCW
2 6.17.020, 4.16.020, 4.56.200, and 6.36.025.

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

4 **Sec. 1.** RCW 6.17.020 and 1997 c 121 s 1 are each amended to read
5 as follows:
6 (1) Except as provided in subsections (2), (3), and (4) of this
7 section, the party in whose favor a judgment of a court ((~~of record of~~
8 ~~this state or a district court of this state~~)) has been or may be filed
9 or rendered, or the assignee or the current holder thereof, may have an
10 execution, garnishment, or other legal process issued for the
11 collection or enforcement of the judgment at any time within ten years
12 from entry of the judgment or the filing of the judgment in this state.
13 (2) After July 23, 1989, a party who obtains a judgment or order of
14 a court ((~~of record of any state,~~)) or an administrative order entered
15 as defined in RCW 74.20A.020(6) for accrued child support, or the
16 assignee or the current holder thereof, may have an execution,
17 garnishment, or other legal process issued upon that judgment or order
18 at any time within ten years of the eighteenth birthday of the youngest
19 child named in the order for whom support is ordered.

(3) After June 9, 1994, a party in whose favor a judgment has been filed as a foreign judgment or rendered pursuant to subsection (1) or (4) of this section, or the assignee or the current holder thereof, may, within ninety days before the expiration of the original ten-year period, apply to the court that rendered the judgment or to the court where the judgment was filed as a foreign judgment for an order granting an additional ten years during which an execution, garnishment, or other legal process may be issued. If a district court judgment of this state is transcribed to a superior court of this state, the original district court judgment shall not be extended and any petition under this section to extend the judgment that has been transcribed to superior court shall be filed in the superior court within ninety days before the expiration of the ten-year period of the date the transcript of the district court judgment was filed in the superior court of this state. The petitioner shall pay to the court a filing fee equal to the filing fee for filing the first or initial paper in a civil action in the court, except in the case of district court judgments transcribed to superior court, where the filing fee shall be the fee for filing the first or initial paper in a civil action in the superior court where the judgment was transcribed. ((~~When application is made to the court to grant an additional ten years, the application shall be accompanied by a current and~~)) The order granting the application shall contain an updated judgment summary as ((outlined)) provided in RCW 4.64.030. The filing fee required under this subsection shall be included in the judgment summary and shall be a recoverable cost. The application shall be 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 amounts.

(4) A party who obtains a judgment or order for restitution, crime victims' assessment, or other court-ordered legal financial obligations pursuant to a criminal judgment and sentence, or the assignee or the current holder thereof, may execute, garnish, and/or have legal process issued upon the judgment or order any time within ten years subsequent to the entry of the judgment and sentence or ten years following the offender's release from total confinement as provided in chapter 9.94A RCW. The clerk of superior court, or a party designated by the clerk, may seek extension under subsection (3) of this section for purposes of

collection as allowed under RCW 36.18.190, provided that no filing fee shall be required.

(5) "Court" as used in this section includes but is not limited to the United States supreme court, the United States courts of appeals, the United States district courts, the United States bankruptcy courts, the Washington state supreme court, the court of appeals of the state of Washington, superior courts and district courts of the counties of the state of Washington, and courts of other states and jurisdictions from which judgment has been filed in this state under chapter 6.36 or 6.40 RCW.

(6) The perfection of any judgment lien and the priority of that judgment lien on property as established by RCW 6.13.090 and chapter 4.56 RCW is not altered by the extension of the judgment pursuant to the provisions of this section and the lien remains in full force and effect and does not have to be rerecorded after it is extended. Continued perfection of a judgment that has been transcribed to other counties and perfected in those counties may be accomplished after extension of the judgment by filing with the clerk of the other counties where the judgment has been filed either a certified copy of the order extending the judgment or a certified copy of the docket of the matter where the judgment was extended.

(7) Except as ordered in RCW 4.16.020 (2) or (3), chapter 9.94A RCW, or chapter 13.40 RCW, no judgment is enforceable for a period exceeding twenty years from the date of entry in the originating court. Nothing in this section may be interpreted to extend the expiration date of a foreign judgment beyond the expiration date under the laws of the jurisdiction where the judgment originated.

(8) The chapter . . . . Laws of 2002 (this act) amendments to this section apply to all judgments currently in effect on the effective date of this section, to all judgments extended after June 9, 1994, unless the judgment has been satisfied, vacated, and/or quashed, and to all judgments filed or rendered, or both, after the effective date of this section.

Sec. 2. RCW 4.16.020 and 1994 c 189 s 2 are each amended to read as follows:

The period prescribed for the commencement of actions shall be as follows:

Within ten years:

(1) For actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his or her ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

(2) For an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or of any territory or possession of the United States outside the boundaries thereof, or of any extraterritorial court of the United States, unless the ((~~ten-year~~)) period is extended ((~~in accordance with~~)) under RCW 6.17.020((~~(3)~~)) or a similar provision in another jurisdiction.

(3) Of the eighteenth birthday of the youngest child named in the order for whom support is ordered for an action to collect past due child support that has accrued under an order entered after July 23, 1989, by any of the above-named courts or that has accrued under an administrative order as defined in RCW 74.20A.020(6), which is issued after July 23, 1989.

Sec. 3. RCW 4.56.200 and 1987 c 202 s 117 are each amended to read as follows:

The lien of judgments upon the real estate of the judgment debtor shall commence as follows:

(1) Judgments of the district court of the United States rendered or filed in the county in which the real estate of the judgment debtor is situated, and judgments of the superior court for the county in which the real estate of the judgment debtor is situated, from the time of the entry or filing thereof;

(2) Judgments of the district court of the United States rendered in any county in this state other than that in which the real estate of the judgment debtor to be affected is situated, judgments of the supreme court of this state, judgments of the court of appeals of this state, and judgments of the superior court for any county other than that in which the real estate of the judgment debtor to be affected is situated, from the time of the filing of a duly certified abstract of such judgment with the county clerk of the county in which the real estate of the judgment debtor to be affected is situated, as provided in this act;

(3) Judgments of a district court of this state rendered or filed as a foreign judgment in a superior court in the county in which the real estate of the judgment debtor is situated, from the time of the filing of a duly certified transcript of the docket of the district court with the county clerk of the county in which such judgment was rendered or filed, and upon such filing said judgment shall become to all intents and purposes a judgment of the superior court for said county; and

(4) Judgments of a district court of this state rendered or filed in a superior court in any other county in this state than that in which the real estate of the judgment debtor to be affected is situated, a transcript of the docket of which has been filed with the county clerk of the county where such judgment was rendered or filed, from the time of filing, with the county clerk of the county in which the real estate of the judgment debtor to be affected is situated, of a duly certified abstract of the record of said judgment in the office of the county clerk of the county in which the certified transcript of the docket of said judgment of said district court was originally filed.

Sec. 4. RCW 6.36.025 and 1994 c 185 s 6 are each amended to read as follows:

(1) A copy of any foreign judgment authenticated in accordance with the act of congress or the statutes of this state may be filed in the office of the clerk of any superior court of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the superior court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, set-offs, counterclaims, cross-complaints, and proceedings for reopening, vacating, ((or)) staying, or extending as a judgment of a superior court of this state and may be enforced, extended, or satisfied in like manner.

(2) Alternatively, a copy of any foreign judgment (a) authenticated in accordance with the act of congress or the statutes of this state, and (b) within the civil jurisdiction and venue of the district court as provided in RCW 3.66.020, 3.66.030, and 3.66.040, may be filed in the office of the clerk of any district court of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of this state. A judgment so filed has the same

effect and is subject to the same procedures, defenses, set-offs, counterclaims, cross-complaints, and proceedings for reopening, vacating, ((~~or~~)) staying, transcribing, or extending as a judgment of a district court of this state, and may be enforced, transcribed, extended, or satisfied in like manner.

(3) The lien of any judgment filed under subsection (1) or (2) of this section shall be governed by chapter 4.56 RCW and RCW 6.17.020.

Passed the Senate February 16, 2002.
Passed the House March 6, 2002.
Approved by the Governor March 29, 2002.
Filed in Office of Secretary of State March 29, 2002.

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Comments:

Original Brief of Appellant was filed on 09/26/19 however it did not have the proper caption or proof of service. Brief of Appellant correcting the caption and proof of service was filed on 10/03/19 but did not include the referenced Appendices. This Amended Brief of Appellant includes the Appendices previously omitted on 10/3/19.

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