

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB620)

Received: **01/25/2000**

Received By: **nelsorpl**

Wanted: **Soon**

Identical to LRB:

For: **Pedro Colon (608) 267-7669**

By/Representing: **andy**

This file may be shown to any legislator: **NO**

Drafter: **nelsorpl**

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Subject: **Courts - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Penalties for not filing worksheets

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

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AMENDMENTS TO AB 620

1. Delete the increases in the jurisdictional amount in SECTIONS 2, 3, and 4 of the bill. This leaves the current law jurisdictional amount for Small Claims at \$5000.
2. Delete the underscored material in SECTIONS 9 and 15 of the bill relating to the filing of worksheets, wage statements, court order for support, or documentation relating to the assertion of a defense or a limitation to garnishment. This leaves current law, where the employee is required to file these statements, but not as a condition precedent to invoking his or her right to a defense or limitation to the garnishment: , , ,
3. Delete SECTION 12 of the bill which penalizes an employee for not having filed the documents referred to above by awarding costs to the creditor in an amount not less than \$50. This leaves current law, which penalizes an employee under 812.38 (3) (b) if the court finds the employee acted in bad faith in asserting a defense or limitation, by awarding the creditor with actual damages, costs and reasonable attorney's fees. The underscored material in this bill which automatically penalizes an employee for not having the right documentation is excessive and will serve only to deter employees from exercising their lawful rights.
4. Delete SECTION 16 of the draft. This increases attorney fees in Small Claims actions -- for example from \$100 to \$750; \$50 to \$500; etc. This leaves current law, which awards "nominal" attorney fees and not anything close to actual attorney fees for what are straight damage claims. Current law does not allow actual attorney fees, or anything close to it, for straight damage claims in large claims actions. There should be no difference for Small Claims actions.
5. Delete SECTION 22, relating to the assignment of debt and right to sue. Among other things, this provision allows a court to award "reasonable attorney fees and costs" for debt collection, on page 10, line 10.
6. Delete SECTION 29, which makes it a crime to pass a check with insufficient funds as long as written notice of insufficient funds is sent to a "last known address." This provision makes it a crime, even though the accused may never have known that there were insufficient funds. The notice may well go to a different address than the one where the accused is living. If the notice were to have been sent to the right address, the accused may well have had sufficient funds. Besides being a very terrible policy, this provision of the bill is very likely unconstitutional, because you cannot make something a crime based on an assumption of intent drawn from a failure to respond to a notice sent to a last known address. Unlike civil remedies, crimes are subject to special prerequisite of

