

An Act relative to fairness in debt collection – S.2638, filed by Senator Eldridge

Summarizing the bill and providing background

Bill summary

The Debt Collection Fairness Act would update several long out-of-date consumer protections, which would help ensure that people are not pushed over a financial precipice when they are sued for debts that are often old, and have been bought by collectors, often at a significantly reduced rate.

The legislation will improve fairness of existing debt collection practices, protect wages, and make clear that no one can be imprisoned for debt.

Relevant provisions

Wage garnishment

The bill would help the most vulnerable families pay for necessities when their wages are seized for a debt, by modestly increasing the wages protected from seizure to 65 times the Massachusetts minimum wage (\$975), or 90% of a worker's gross wages for each week from seizure, whichever is greater.

Current law protects 50 times the Massachusetts minimum wage (\$750) or 85 percent of the workers gross wages for each week from seizure, whichever is greater.

It would also allow a worker to ask the court to exempt additional wages because of hardship and prohibit an employer from firing a worker for having multiple wage garnishments.

Statutes of limitations

The bill would help low-income individuals and families by reducing the statute of limitation for consumer debt to 5 years (from 6), prohibiting the renewal or extension of the statute of limitations period because of partial payments on debt, and reducing the period of time during which a creditor can collect on a court judgment from 20 years to 10 years, with one 10-year extension available

Arrest warrants

The bill would improve notice to consumers about post judgment hearings, allow consumers to submit a financial affidavit in lieu of appearing in court for payment review if the consumer's income and assets are exempt, provide for procedural protections related to the issuance and use of capias warrants, and clearly prohibit imprisonment for failure to pay a consumer debt.

Currently, G. L. c. 224, § 18 provides for the issuance of "warrants for arrest and other processes to secure the attendance of debtors or creditors to answer for any contempt."

Interest & Attorney Fees

This legislation significantly reduces interest rates charged to people after a court finds they owe a debt, and attorneys fees in consumer debt matters.

It lowers interest on new judgments from 12% to 3% and makes clear the new rate is not retroactive, and limits the ability of debt collectors to recover attorney's fees to cases where the contract creating the debt requires the consumer to pay such fees. Where authorized by the contract, attorney's fees would be limited to a reasonable percentage of the amount owed by the consumer.