

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 10
91ST GENERAL ASSEMBLY

Reported from the Committee on Civil and Criminal Jurisprudence, February 12, 2001, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

TERRY L. SPIELER, Secretary.

0358S.04C

AN ACT

To repeal sections 473.398 and 516.350, RSMo 2000, relating to judicial proceedings, and to enact in lieu thereof three new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 473.398 and 516.350, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 473.398, 490.221 and 516.350, to read as follows:

473.398. 1. Upon the death of a person, who has been a recipient of aid, assistance, care, services, or who has had moneys expended on his behalf by the department of health, department of social services, **except for benefits paid from the blind pension fund**, or the department of mental health, or by a county commission, the total amount paid to the decedent or expended upon his behalf after January 1, 1978, shall be a debt due the state or county, as the case may be, from the estate of the decedent. The debt shall be collected as provided by the probate code of Missouri, chapters 472, 473, 474 and 475, RSMo.

2. Procedures for the allowance of such claims shall be in accordance with this chapter, and such claims shall be allowed as a claim of the seventh class under subdivision (7) of section 473.397.

3. Such claim shall not be filed or allowed if it is determined that:

(1) The cost of collection will exceed the amount of the claim;

(2) The collection of the claim will adversely affect the need of the surviving spouse or dependents of the decedent to reasonable care and support from the estate.

4. Claims consisting of moneys paid on the behalf of a recipient as defined in 42 U.S.C. 1396 shall be allowed, except as provided in subsection 3 of this section, upon the showing by the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

claimant of proof of moneys expended. Such proof may include but is not limited to the following items which are deemed to be competent and substantial evidence of payment:

(1) Computerized records maintained by any governmental entity as described in subsection 1 of this section of a request for payment for services rendered to the recipient; and

(2) The certified statement of the treasurer or his designee that the payment was made.

5. The provisions of this section shall not apply to any claims, adjustments or recoveries specifically prohibited by federal statutes or regulations duly promulgated thereunder. Further, the federal government shall receive from the amount recovered any portion to which it is entitled.

490.221. 1. All records kept by any governmental office of the United States or any of its states which are available to the public through the Internet, whether offered in printed or electronic format, shall be evidence in this state, without the requirement of attestation or seal, upon the affidavit of any party to the litigation, or the attorney of record for any party, setting forth the name of the governmental office, its mailing address or electronic address, and attaching a complete copy of the records to be introduced in evidence. The copy of the records may be furnished in a legible printed form or in electronic format complying with the current requirements of the supreme court for filing legal briefs in its court. The affidavit of the party or attorney must be served upon all other parties to the action not less than seven calendar days prior to the day the trial commences, in order to afford sufficient time to verify the accuracy and authenticity of the document.

2. Governmental records which comply with the requirements of this section shall not be excluded from evidence as being hearsay.

516.350. 1. Every judgment, order or decree of any court of record of the United States, or of this or any other state, territory or country, except for any judgment, order, or decree awarding child support or maintenance **or dividing pension, retirement, life insurance, or other employee benefits in connection with a dissolution of marriage, legal separation or annulment** which mandates the making of payments over a period of time **or payments in the future**, shall be presumed to be paid and satisfied after the expiration of ten years from the date of the original rendition thereof, or if the same has been revived upon personal service duly had upon the defendant or defendants therein, then after ten years from and after such revival, or in case a payment has been made on such judgment, order or decree, and duly entered upon the record thereof, after the expiration of ten years from the last payment so made, and after the expiration of ten years from the date of the original rendition or revival upon personal service, or from the date of the last payment, such judgment shall be conclusively presumed to be paid, and no execution, order or process shall issue thereon, nor shall any suit be brought, had or maintained thereon for any purpose whatever.

2. In any judgment, order, or decree awarding child support or maintenance, each periodic

payment shall be presumed paid and satisfied after the expiration of ten years from the date that periodic payment is due, unless the judgment has been otherwise revived as set out in subsection 1 of this section. This subsection shall take effect as to all such judgments, orders, or decrees which have not been presumed paid pursuant to subsection 1 of this section as of August 31, 1982.

3. In any judgment, order, or decree dividing pension, retirement, life insurance, or other employee benefits in connection with a dissolution of marriage, legal separation or annulment, each periodic payment shall be presumed paid and satisfied after the expiration of ten years from the date that periodic payment is due, unless the judgment has been otherwise revived as set out in subsection 1 of this section. This subsection shall take effect as to all such judgments, orders, or decrees which have not been presumed paid pursuant to subsection 1 of this section as of August 28, 2001.

[3.] 4. In any judgment, order or decree awarding child support or maintenance, payment duly entered on the record as provided in subsection 1 of this section shall include recording of payments or credits in the automated child support system created pursuant to chapter 454, RSMo, by the division of child support enforcement or payment center pursuant to chapter 454, RSMo.

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