

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 42
97TH GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, February 6, 2013, with recommendation that the Senate Committee Substitute do pass.

0094S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 221.070, 313.321, 488.5028, and 571.104, RSMo, and to enact in lieu thereof five new sections relating to delinquent debts for the cost of imprisonment in a county jail.

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

Section A. Sections 221.070, 313.321, 488.5028, and 571.104, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections
3 221.070, 313.321, 488.5028, 488.5029, and 571.104, to read as follows:

221.070. 1. Every person who shall be committed to the common jail
2 within any county in this state, by lawful authority, for any offense or
3 misdemeanor, upon a plea of guilty or a finding of guilt for such offense, shall
4 bear the expense of carrying him or her to said jail, and also his or her support
5 while in jail, before he or she shall be discharged; and the property of such person
6 shall be subjected to the payment of such expenses, and shall be bound therefor,
7 from the time of his commitment, and may be levied on and sold, from time to
8 time, under the order of the court having criminal jurisdiction in the county, to
9 satisfy such expenses.

10 **2. If a person has not paid all money owed to the county jail**
11 **upon release from custody and has failed to enter into, or honor an**
12 **agreement with the sheriff to make payments toward such debt**
13 **according to a repayment plan, the sheriff may certify to the clerk of**
14 **the court in which the case was determined the amount of the**
15 **outstanding debt. The circuit clerk shall report to the office of state**
16 **courts administrator the debtor's full name, date of birth, address, and**

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

17 the amount the debtor owes to the county jail. If the person
18 subsequently satisfies the debt to the county jail or begins making
19 regular payments in accordance with an agreement entered into with
20 the sheriff, the sheriff shall notify the circuit clerk who shall then
21 notify the state courts administrator that the person shall no longer be
22 considered delinquent.

313.321. 1. The money received by the Missouri state lottery commission
2 from the sale of Missouri lottery tickets and from all other sources shall be
3 deposited in the "State Lottery Fund", which is hereby created in the state
4 treasury. At least forty-five percent, in the aggregate, of the money received from
5 the sale of Missouri lottery tickets shall be appropriated to the Missouri state
6 lottery commission and shall be used to fund prizes to lottery players. Amounts
7 in the state lottery fund may be appropriated to the Missouri state lottery
8 commission for administration, advertising, promotion, and retailer
9 compensation. The general assembly shall appropriate remaining moneys not
10 previously allocated from the state lottery fund by transferring such moneys to
11 the general revenue fund. The lottery commission shall make monthly transfers
12 of moneys not previously allocated from the state lottery fund to the general
13 revenue fund as provided by appropriation.

14 2. The commission may also purchase and hold title to any securities
15 issued by the United States government or its agencies and instrumentalities
16 thereof that mature within the term of the prize for funding multi-year payout
17 prizes.

18 3. The "Missouri State Lottery Imprest Prize Fund" is hereby created.
19 This fund is to be established by the state treasurer and funded by warrants
20 drawn by the office of administration from the state lottery fund in amounts
21 specified by the commission. The commission may write checks and disburse
22 moneys from this fund for the payment of lottery prizes only and for no other
23 purpose. All expenditures shall be made in accordance with rules and regulations
24 established by the office of administration. Prize payments may also be made
25 from the state lottery fund. Prize payouts made pursuant to this section shall be
26 subject to the provisions of section 143.781[; and]. Prize payouts made pursuant
27 to this section shall be subject to set off for:

28 (1) Delinquent child support payments as assessed by a court of
29 competent jurisdiction or pursuant to section 454.410[. Prize payouts made under
30 this section shall be subject to set off for];

31 **(2) Unpaid health care services provided by hospitals and health care**
32 providers under the procedure established in section 143.790; **and**

33 **(3) Unpaid debts to a county jail as provided under section**
34 **221.070 and pursuant to the procedure established in section 488.5028.**

35 4. Funds of the state lottery commission not currently needed for prize
36 money, administration costs, commissions and promotion costs shall be invested
37 by the state treasurer in interest-bearing investments in accordance with the
38 investment powers of the state treasurer contained in chapter 30. All interest
39 earned by funds in the state lottery fund shall accrue to the credit of that fund.

40 5. No state or local sales tax shall be imposed upon the sale of lottery
41 tickets or shares of the state lottery or on any prize awarded by the state lottery.
42 No state income tax or local earnings tax shall be imposed upon any lottery game
43 prizes which accumulate to an amount of less than six hundred dollars during a
44 prize winner's tax year. The state of Missouri shall withhold for state income tax
45 purposes from a lottery game prize or periodic payment of six hundred dollars or
46 more an amount equal to four percent of the prize.

47 6. The director of revenue is authorized to enter into agreements with the
48 lottery commission, in conjunction with the various state agencies pursuant to
49 sections 143.782 to 143.788, in an effort to satisfy outstanding debts to the state
50 from the lottery winning of any person entitled to receive lottery payments which
51 are subject to federal withholding. The director of revenue is also authorized to
52 enter into agreements with the lottery commission in conjunction with the
53 department of health and senior services pursuant to section 143.790 in an effort
54 to satisfy outstanding debts owed to hospitals and health care providers for
55 unpaid health care services of any person entitled to receive lottery payments
56 which are subject to federal withholding.

57 7. In addition to the restrictions provided in section 313.260, no person,
58 firm, or corporation whose primary source of income is derived from the sale or
59 rental of sexually oriented publications or sexually oriented materials or property
60 shall be licensed as a lottery game retailer and any lottery game retailer license
61 held by any such person, firm, or corporation shall be revoked.

488.5028. 1. If a person fails to pay court costs, fines, fees, or other sums
2 ordered by a court, to be paid to the state or political subdivision, a court may
3 report any such delinquencies in excess of twenty-five dollars to the office of state
4 courts administrator and request that the state courts administrator seek a setoff
5 of an income tax refund. The state courts administrator shall set guidelines

6 necessary to effectuate the purpose of the offset program. **The office of state**
7 **courts administrator shall also seek a setoff of any income tax refund**
8 **and lottery prize payouts made to a person whose name has been**
9 **reported to the office as being delinquent pursuant to section 221.070.**

10 2. The office of state courts administrator shall provide to:

11 (1) The department of revenue [with], the information necessary to
12 identify each debtor whose refund is sought to be setoff and the amount of the
13 debt or debts owed by [each such] **any** debtor who is entitled to a tax refund in
14 excess of twenty-five dollars **and any debtor under section 221.070 who is**
15 **entitled to a tax refund of any amount; and**

16 (2) **The state lottery commission, the information necessary to**
17 **identify each debtor whose lottery prize payouts are sought to be setoff**
18 **and the amount of the debt or debts owned by the debtor under section**
19 **221.070.**

20 3. The department of revenue shall notify the office of state courts
21 administrator that a refund has been setoff, **and the state lottery commission**
22 **shall notify the office when a lottery prize payout has been setoff**, on
23 behalf of a court [and]. **The department or commission** shall certify the
24 amount of such setoff, which shall not exceed the amount of the claimed debt
25 certified. When the refund owed [exceeds] **or lottery prize payouts exceed**
26 the claimed debt, the department of revenue **when a refund is setoff, or the**
27 **state lottery commission when lottery prizes are setoff**, shall send the
28 excess amount to the debtor within a reasonable time after such excess is
29 determined.

30 4. The office of state courts administrator shall notify the debtor by mail
31 that a setoff has been sought. The notice shall contain the following:

32 (1) The name of the debtor;

33 (2) The manner in which the debt arose;

34 (3) The amount of the claimed debt and the department's intention to
35 setoff the refund **or the lottery commission's intention to setoff the lottery**
36 **prize payouts** against the debt;

37 (4) The amount, if any, of the refund **or lottery prize payouts** due after
38 setoff [of the refund] against the debt; and

39 (5) The right of the debtor to apply in writing to the court originally
40 requesting setoff for review of the setoff because the debt was previously satisfied.
41 Any debtor applying to the court for review of the setoff shall file a written

42 application within thirty days of the date of mailing of the notice and send a copy
43 of the application to the office of state courts administrator. The application for
44 review of the setoff shall contain the name of the debtor, the case name and
45 number from which the debt arose, and the grounds for review. The court may
46 upon application, or on its own motion, hold a hearing on the application. The
47 hearing shall be ancillary to the original action with the only matters for
48 determination whether the [refund] setoff was appropriate because the debt was
49 unsatisfied at the time the court reported the delinquency to the office of state
50 courts administrator and that the debt remains unsatisfied. In the case of a joint
51 or combined return, the notice sent by the department shall contain the name of
52 the nonobligated taxpayer named in the return, if any, against whom no debt is
53 claimed. The notice shall state that as to the nonobligated taxpayer that no debt
54 is owed and that the taxpayer is entitled to a refund regardless of the debt owed
55 by such other person or persons named on the joint or combined return. The
56 nonobligated taxpayer may seek a refund as provided in section 143.784.

57 5. Upon receipt of funds transferred from the department of revenue **or**
58 **the state lottery commission** to the office of state courts administrator
59 pursuant to a [refund] setoff, the state courts administrator shall deposit such
60 funds in the state treasury to be held in an escrow account, which is hereby
61 established. Interest earned on those funds shall be credited to the escrow
62 account and used to offset administrative expenses. If a debtor files with a court
63 an application for review, the state courts administrator shall hold such sums in
64 question until directed by such court to release the funds. If no application for
65 review is filed, the state courts administrator shall, within forty-five days of
66 receipt of funds from the department, send to the clerk of the court in which the
67 debt arose such sums as are collected by the department of revenue for credit to
68 the debtor's account.

488.5029. 1. After the period provided for a person to appeal a
2 debt under subsection 6 of this section has expired and unless a court,
3 upon review, determines that the delinquent debt has been satisfied,
4 the office of state courts administrator shall notify the department of
5 revenue and the department of conservation of the full name, date of
6 birth, and address of any person reported by a circuit court as being
7 delinquent in the payment of money to a county jail under section
8 221.070. If a person requests a hearing under subsection 6 of this
9 section, the state courts administrator shall wait to send such

10 notification until the court has issued a decision. When the circuit
11 clerk has notified the state courts administrator that a person shall no
12 longer be considered delinquent, the state courts administrator shall
13 notify the departments of such fact. Notification under this subsection
14 may be on forms or in an electronic format per agreement with the
15 office of state courts administrator and each department.

16 2. No concealed carry endorsement shall be issued or renewed
17 under chapter 571 until the department of revenue verifies that the
18 person has not been reported as being delinquent under this section. A
19 concealed carry endorsement shall not be issued or renewed if an
20 applicant is reported as being delinquent until the department of
21 revenue receives notification from the state courts administrator that
22 the person is no longer ineligible for a concealed carry
23 endorsement. The concealed carry endorsement in the name of any
24 person reported as being delinquent under this section shall be
25 suspended pursuant to section 571.104.

26 3. The following procedure shall apply between the office of state
27 courts administrator and the department of conservation regarding the
28 suspension of hunting and fishing licenses:

29 (1) The office of state courts administrator shall be responsible
30 for making the determination whether an individual's license should be
31 suspended based on the reasons specified in section 221.070; and

32 (2) If the office of state courts administrator determines, after
33 completion of all due process procedures available to an individual,
34 that an individual's license should be suspended, the office of state
35 courts administrator shall notify the department of conservation. The
36 department shall promulgate a rule consistent with a cooperative
37 agreement between the office of state courts administrator and the
38 department of conservation providing that the conservation
39 commission shall refuse to issue or suspend a hunting or fishing license
40 for any person based on the reasons specified in section 221.070. Such
41 suspension shall remain in effect until the department is notified by the
42 office of state courts administrator that such suspension should be
43 stayed or terminated because the individual is now in compliance with
44 delinquent payments of money to the county jail.

45 4. The department of revenue and the department of
46 conservation shall make necessary rules and regulations for the

47 enforcement of this section, and shall design all necessary forms. Any
48 rule or portion of a rule, as that term is defined in section 536.010 that
49 is created under the authority delegated in this section shall become
50 effective only if it complies with and is subject to all of the provisions
51 of chapter 536, and, if applicable, section 536.028. This section and
52 chapter 536 are nonseverable and if any of the powers vested with the
53 general assembly pursuant to chapter 536, to review, to delay the
54 effective date, or to disapprove and annul a rule are subsequently held
55 unconstitutional, then the grant of rulemaking authority and any rule
56 proposed or adopted after August 28, 2013, shall be invalid and void.

57 5. Before the office of state courts administrator has reported the
58 name of any debtor pursuant to this section, the state courts
59 administrator shall notify the debtor by mail that his or her name will
60 be forwarded to the department of revenue and the department of
61 conservation. The notice shall contain the following information:

62 (1) The name of the debtor;

63 (2) The manner in which the debt arose;

64 (3) The amount of the claimed debt;

65 (4) The provisions of this section regarding the issuance,
66 renewal, and suspension of a concealed carry endorsement and the
67 issuance and suspension of a license to hunt or fish;

68 (5) The date by which a person with a concealed carry
69 endorsement shall surrender the driver's license or nondriver's license
70 containing the concealed carry endorsement to the court that reported
71 the unpaid debt; and

72 (6) The right of the debtor to apply in writing to the court in
73 which the debt originated for review because the debt was previously
74 satisfied.

75 6. Any debtor applying to the court for review shall file a written
76 application within thirty days of the date of mailing of the notice and
77 send a copy of the application to the office of state courts
78 administrator. The application for review shall contain the name of the
79 debtor, the case name and number from which the debt arose, and the
80 grounds for review. The court may upon application, or on its own
81 motion, hold a hearing on the application. The hearing shall be
82 ancillary to the original action with the only matters for determination
83 whether the debt was unsatisfied at the time the court reported the

84 **delinquency to the office of state courts administrator and that the debt**
85 **remains unsatisfied.**

571.104. 1. (1) A concealed carry endorsement issued pursuant to
2 sections 571.101 to 571.121 shall be suspended or revoked if the concealed carry
3 endorsement holder becomes ineligible for such concealed carry endorsement
4 under the criteria established in subdivisions (2), (3), (4), (5), and (7) of subsection
5 2 of section 571.101 [or], upon the issuance of a valid full order of protection, **or**
6 **as a result of an unpaid debt to a county jail under section 221.070.**

7 (2) When a valid full order of protection, or any arrest warrant, discharge,
8 or commitment for the reasons listed in subdivision (2), (3), (4), (5), or (7) of
9 subsection 2 of section 571.101, is issued against a person holding a concealed
10 carry endorsement issued pursuant to sections 571.101 to 571.121 upon
11 notification of said order, warrant, discharge or commitment or upon an order of
12 a court of competent jurisdiction in a criminal proceeding, a commitment
13 proceeding or a full order of protection proceeding ruling that a person holding
14 a concealed carry endorsement presents a risk of harm to themselves or others,
15 then upon notification of such order, the holder of the concealed carry
16 endorsement shall surrender the driver's license or nondriver's license containing
17 the concealed carry endorsement to the court, to the officer, or other official
18 serving the order, warrant, discharge, or commitment. **A person holding a**
19 **concealed carry endorsement who has been notified by the office of**
20 **state courts administrator under subsection 5 of section 488.5029 shall**
21 **surrender the driver's license or nondriver's license containing the**
22 **endorsement to the court that reported the unpaid debt within thirty**
23 **days of the mailing of the notice, or, if an appeal has been made to the**
24 **court, upon notification of the court's finding that the debt remains**
25 **unsatisfied or the court's dismissal of the appeal.**

26 (3) The official **or court** to whom the driver's license or nondriver's
27 license containing the concealed carry endorsement is surrendered shall issue a
28 receipt to the licensee for the license upon a form, approved by the director of
29 revenue, that serves as a driver's license or a nondriver's license and clearly
30 states the concealed carry endorsement has been suspended. The official shall
31 then transmit the driver's license or a nondriver's license containing the
32 concealed carry endorsement to the circuit court of the county issuing the order,
33 warrant, discharge, or commitment. The concealed carry endorsement issued
34 pursuant to sections 571.101 to 571.121 shall be suspended until the order is

35 terminated [or], until the arrest results in a dismissal of all charges, **or until**
36 **the debt under section 271.070 is reported by the sheriff as no longer**
37 **being delinquent.** Upon dismissal **of the charge or notification by the**
38 **sheriff to the circuit clerk that the debt is no longer delinquent,** the
39 court holding the driver's license or nondriver's license containing the concealed
40 carry endorsement shall return it to the individual.

41 (4) Any conviction, discharge, or commitment specified in sections 571.101
42 to 571.121 shall result in a revocation. Upon conviction, the court shall forward
43 a notice of conviction or action and the driver's license or nondriver's license with
44 the concealed carry endorsement to the department of revenue. The department
45 of revenue shall notify the sheriff of the county which issued the certificate of
46 qualification for a concealed carry endorsement and shall report the change in
47 status of the concealed carry endorsement to the Missouri uniform law
48 enforcement system. The director of revenue shall immediately remove the
49 endorsement issued pursuant to sections 571.101 to 571.121 from the individual's
50 driving record within three days of the receipt of the notice from the court. The
51 director of revenue shall notify the licensee that he or she must apply for a new
52 license pursuant to chapter 302 which does not contain such endorsement. This
53 requirement does not affect the driving privileges of the licensee. The notice
54 issued by the department of revenue shall be mailed to the last known address
55 shown on the individual's driving record. The notice is deemed received three
56 days after mailing.

57 2. A concealed carry endorsement shall be renewed for a qualified
58 applicant upon receipt of the properly completed renewal application and the
59 required renewal fee by the sheriff of the county of the applicant's residence. The
60 renewal application shall contain the same required information as set forth in
61 subsection 3 of section 571.101, except that in lieu of the fingerprint requirement
62 of subsection 5 of section 571.101 and the firearms safety training, the applicant
63 need only display his or her current driver's license or nondriver's license
64 containing a concealed carry endorsement. Upon successful completion of all
65 renewal requirements, the sheriff shall issue a certificate of qualification which
66 contains the date such certificate was renewed.

67 3. A person who has been issued a certificate of qualification for a
68 concealed carry endorsement who fails to file a renewal application on or before
69 its expiration date must pay an additional late fee of ten dollars per month for
70 each month it is expired for up to six months. After six months, the sheriff who

71 issued the expired certificate shall notify the director of revenue that such
72 certificate is expired. The director of revenue shall immediately cancel the
73 concealed carry endorsement and remove such endorsement from the individual's
74 driving record and notify the individual of such cancellation. The notice of
75 cancellation of the endorsement shall be conducted in the same manner as
76 described in subsection 1 of this section. Any person who has been issued a
77 certificate of qualification for a concealed carry endorsement pursuant to sections
78 571.101 to 571.121 who fails to renew his or her application within the six-month
79 period must reapply for a new certificate of qualification for a concealed carry
80 endorsement and pay the fee for a new application. The director of revenue shall
81 not issue an endorsement on a renewed driver's license or renewed nondriver's
82 license unless the applicant for such license provides evidence that he or she has
83 renewed the certification of qualification for a concealed carry endorsement in the
84 manner provided for such renewal pursuant to sections 571.101 to 571.121. If an
85 applicant for renewal of a driver's license or nondriver's license containing a
86 concealed carry endorsement does not want to maintain the concealed carry
87 endorsement, the applicant shall inform the director at the time of license
88 renewal of his or her desire to remove the endorsement. When a driver's or
89 nondriver's license applicant informs the director of his or her desire to remove
90 the concealed carry endorsement, the director shall renew the driver's license or
91 nondriver's license without the endorsement appearing on the license if the
92 applicant is otherwise qualified for such renewal.

93 4. Any person issued a concealed carry endorsement pursuant to sections
94 571.101 to 571.121 shall notify the department of revenue and the sheriffs of both
95 the old and new jurisdictions of the endorsement holder's change of residence
96 within thirty days after the changing of a permanent residence. The endorsement
97 holder shall furnish proof to the department of revenue and the sheriff in the new
98 jurisdiction that the endorsement holder has changed his or her residence. The
99 sheriff of the new jurisdiction may charge a processing fee of not more than ten
100 dollars for any costs associated with notification of a change in residence. The
101 change of residence shall be made by the department of revenue onto the
102 individual's driving record and the new address shall be accessible by the
103 Missouri uniform law enforcement system within three days of receipt of the
104 information.

105 5. Any person issued a driver's license or nondriver's license containing
106 a concealed carry endorsement pursuant to sections 571.101 to 571.121 shall

107 notify the sheriff or his or her designee of the endorsement holder's county or city
108 of residence within seven days after actual knowledge of the loss or destruction
109 of his or her driver's license or nondriver's license containing a concealed carry
110 endorsement. The endorsement holder shall furnish a statement to the sheriff
111 that the driver's license or nondriver's license containing the concealed carry
112 endorsement has been lost or destroyed. After notification of the loss or
113 destruction of a driver's license or nondriver's license containing a concealed carry
114 endorsement, the sheriff shall reissue a new certificate of qualification within
115 three working days of being notified by the concealed carry endorsement holder
116 of its loss or destruction. The reissued certificate of qualification shall contain
117 the same personal information, including expiration date, as the original
118 certificate of qualification. The applicant shall then take the certificate to the
119 department of revenue, and the department of revenue shall proceed on the
120 certificate in the same manner as provided in subsection 7 section 571.101. Upon
121 application for a license pursuant to chapter 302, the director of revenue shall
122 issue a driver's license or nondriver's license containing a concealed carry
123 endorsement if the applicant is otherwise eligible to receive such license.

124 6. If a person issued a concealed carry endorsement changes his or her
125 name, the person to whom the endorsement was issued shall obtain a corrected
126 certificate of qualification for a concealed carry endorsement with a change of
127 name from the sheriff who issued such certificate upon the sheriff's verification
128 of the name change. The sheriff may charge a processing fee of not more than ten
129 dollars for any costs associated with obtaining a corrected certificate of
130 qualification. The endorsement holder shall furnish proof of the name change to
131 the department of revenue and the sheriff within thirty days of changing his or
132 her name and display his or her current driver's license or nondriver's license
133 containing a concealed carry endorsement. The endorsement holder shall apply
134 for a new driver's license or nondriver's license containing his or her new
135 name. Such application for a driver's license or nondriver's license shall be made
136 pursuant to chapter 302. The director of revenue shall issue a driver's license or
137 nondriver's license with concealed carry endorsement with the endorsement
138 holder's new name if the applicant is otherwise eligible for such license. The
139 director of revenue shall take custody of the old driver's license or nondriver's
140 license. The name change shall be made by the department of revenue onto the
141 individual's driving record and the new name shall be accessible by the Missouri
142 uniform law enforcement system within three days of receipt of the information.

143 7. A concealed carry endorsement shall be automatically invalid after
144 thirty days if the endorsement holder has changed his or her name or changed his
145 or her residence and not notified the department of revenue and sheriff of a
146 change of name or residence as required in subsections 4 and 6 of this section.

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