

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 835 &amp; 1111

AN ACT

To repeal sections 513.380, 513.430, and 513.475, RSMo, and to enact in lieu thereof five new sections relating to garnishments, with an effective date for certain sections.

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

Section A. Sections 513.380, 513.430, and 513.475, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 513.380, 513.423, 513.430, 513.475, and 525.235, to read as follows:

513.380. 1. [Whenever an execution against the property of any judgment debtor, individual or corporate, issued from any court in this state, shall be returned unsatisfied, in whole or in part, by any sheriff or other proper officer, the] A judgment creditor [in such execution, his executor, administrator or assign, may,] shall upon motion made at any time [within five years after such return so made] before the judgment has been satisfied of record by the judgment creditor and before the judgment being presumed paid and satisfied under section 516.350, be entitled to an order by the court rendering such judgment, requiring the judgment debtor or, in the case of a corporate judgment debtor, its chief officer to appear before such court at a time and place in said order to be named, to undergo an examination under oath touching his or her ability and means to satisfy said judgment, and in case of neglect or refusal on the part of such judgment debtor or, in the case of a corporate debtor, its chief officer to obey such order, such court is hereby authorized to issue a writ of attachment

against said debtor, as now provided by law, and to punish him or, in the case of a corporate debtor, its chief officer for contempt.

2. [Any prosecuting attorney or circuit attorney may grant use immunity from prosecution to a judgment debtor for any statement made at a judgment debtor's examination conducted pursuant to subsection 1 of this section. Such use immunity from prosecution shall protect such person from prosecution for any offense related to the content of the statements made] For any statement made at a judgment debtor's examination and conducted pursuant to subsection 1 of this section, a judgment debtor shall enjoy full use immunity and derivative use immunity from prosecution coextensive with their constitutional privilege against self-incrimination. No testimony or other information directly or indirectly derived therefrom, compelled under subsection 1 of this section, may be used against the witness in any criminal case, except a prosecution for perjury or giving a false statement.

513.423. 1. On April 1, 2029, and on each three-year interval ending on April first thereafter, each dollar amount in effect under sections 513.430 and 513.475 shall be adjusted:

(a) To reflect the change in the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, or its successor index, for the most recent three-year period ending immediately before January first preceding such April first; and

(b) To round to the nearest twenty-five dollars the dollar amount that represents such change.

2. Not later than March 1, 2029, and at each three-year interval ending on March first thereafter, the revisor of statutes shall publish a schedule of adjusted dollar

amounts, which will become effective on such April first, annually in an appendix to the revised statutes of Missouri. The revisor of statutes shall place a revisor's note following section 513.430 or 513.475 referencing the appendix of the adjusted dollar amount.

3. Adjustments made in accordance with subsection 1 of this section shall not apply with respect to cases commenced before the date of such adjustments.

513.430. 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed ~~three~~ fifteen thousand dollars in value in the aggregate;

(2) A wedding ring not to exceed one thousand five hundred dollars in value and other jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed ~~five~~ one thousand seven hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value ~~six~~ one thousand seven hundred dollars in the aggregate;

(4) Any implements or professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed three thousand dollars in value in the aggregate;

(5) Any motor vehicles, not to exceed ~~three~~ five thousand dollars in value in the aggregate plus up to ten thousand dollars of any unused amount of the exemption

provided under subdivision (1) of this subsection may be allocated to a motor vehicle;

(6) Any mobile home used as the principal residence but not attached to real property in which the debtor has a fee interest, not to exceed [five] twelve thousand dollars in value;

(7) Any one or more unmaturred life insurance contracts owned by such person, other than a credit life insurance contract, and up to fifteen thousand dollars of any matured life insurance proceeds for actual funeral, cremation, or burial expenses where the deceased is the spouse, child, or parent of the beneficiary;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmaturred life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance

contract which was purchased by such person within one year prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed seven hundred fifty dollars a month;

(e) a. Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established pursuant to section 456.014, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

(i) Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

(ii) Such payment is on account of age or length of service; and

(iii) Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. Section 401(a), 403(a), 403(b), 408, 408A or 409).

b. Notwithstanding the exemption provided in subparagraph a. of this paragraph, any such payment to any

person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414(p)), as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan, profit-sharing plan, health savings [plan] account, or similar plan, including an inherited account or plan, that is qualified under Section 223, 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986 (26 U.S.C. Section 223, 401(a), 403(a), 403(b), 408, 408A, or 409), as amended, whether such participant's or beneficiary's interest arises by inheritance, designation, appointment, or otherwise, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its department of social services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414(p)), as amended. If proceedings under Title 11 of the United States Code are commenced by or against such

person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in subsection 2 of section 428.024 and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(12) Firearms, firearm accessories, and ammunition, not to exceed one thousand five hundred dollars in value in the aggregate;

(13) Any moneys accruing to and deposited in individual savings accounts or individual deposit accounts under sections 166.400 to 166.456 or sections 166.500 to 166.529, subject to the following provisions:

(a) This subdivision shall apply to any proceeding that:

- a. Is filed on or after January 1, 2022; or
- b. Was filed before January 1, 2022, and is pending or on appeal after January 1, 2022;

(b) Except as provided by paragraph (c) of this subdivision, if the designated beneficiary of an individual savings account or individual deposit account established under sections 166.400 to 166.456 or sections 166.500 to 166.529 is a lineal descendant of the account owner, all moneys in the account shall be exempt from any claims of creditors of the account owner or designated beneficiary;

(c) The provisions of paragraph (b) of this subdivision shall not apply to:

a. Claims of any creditor of an account owner as to amounts contributed within a two-year period preceding the date of the filing of a bankruptcy petition under 11 U.S.C. Section 101 et seq., as amended; or

b. Claims of any creditor of an account owner as to amounts contributed within a one-year period preceding an execution on judgment for such claims against the account owner.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Sections 408 and 408A of the Internal Revenue Code of 1986 (26 U.S.C. Sections 408 and 408A), as amended.

513.475. 1. The homestead of every person, consisting of a dwelling house and appurtenances, and the land used in connection therewith, not exceeding the aggregate value of [fifteen] forty thousand dollars, which is or shall be used by such person as a homestead, shall, together with the rents, issues and products thereof, be exempt from attachment and execution. The exemption allowed under this section shall not be allowed for more than one owner of any homestead if one owner claims the entire amount allowed under this subsection; but, if more than one owner of any homestead claims an exemption under this section, the exemption allowed to each of such owners shall not exceed, in the aggregate, the total exemption allowed under this subsection as to any one homestead.

2. Either spouse separately shall be debarred from and incapable of selling, mortgaging or alienating the homestead in any manner whatever, and every such sale, mortgage or alienation is hereby declared null and void; provided, however, that nothing herein contained shall be so construed as to prevent the husband and wife from jointly conveying, mortgaging, alienating or in any other manner disposing of such homestead, or any part thereof.

525.235. 1. For purposes of this section, the term "financial institution" means a federally insured bank, savings bank, savings and loan association, or credit union.

2. All orders of garnishment issued in this state for the purpose of attaching to account funds on deposit held by a financial institution shall be issued only under this section and shall attach only to such funds held by the financial institution on the date of service on the financial institution, provided the effective date of service shall be a banking day and provided service is made prior to the financial institution's business cutoff time, otherwise the service on the financial institution shall be effective on the next banking day. If an account receives electronic deposits of exempt protected funds, including, but not limited to, funds described under subdivision (10) of subsection 1 of section 513.430, the attachment date for such account shall be the date and banking day that the financial institution applies for the federally required look-back analysis to determine the protected amount. The return date for orders of garnishment under this section shall not be less than thirty days from the effective date of service.

3. All orders of garnishment issued in this state for the purpose of attaching to account funds held by a financial institution shall include the judgment debtor's

address and the last four digits of the debtor's tax identification number, if known, and shall specify the amount of funds to be withheld by the garnishee.

4. If an order of garnishment attaches to account funds held by a financial institution and the garnishee holds funds of the judgment debtor in two or more accounts, the garnishee may withhold payment of the amount attached from any one or more of such accounts and such accounts may have a different attachment date if necessary for the federally required look-back analysis.

5. If an order of garnishment attaches to account funds held by a financial institution and the garnishee holds funds of the judgment debtor in an account which the judgment debtor owns in joint tenancy with one or more individuals who are not subject to the garnishment, the garnishee shall withhold the entire amount sought by the garnishment. Neither the garnishor nor the garnishee shall be liable to the joint owners if the ownership of the funds is later proven not to be the judgment debtor's.

6. No party shall seek an order of garnishment attaching to account funds held by a financial institution except on good faith belief of the party seeking garnishment that the party to be served with the garnishment order has, or will have, account assets of the judgment debtor. Except as provided in this subsection, not more than one garnishment shall be issued by a party seeking an order of garnishment under this section for the same garnishee applicable to the same claim or claims and against the same judgment debtor in any thirty-day period. A judge may order an exception to this subsection in any case in which the party seeking the garnishment shall in person or by attorney:

(1) Certify that the garnishment is not for the purpose of harassment of the debtor; and

(2) State facts demonstrating to the satisfaction of the judge that there is reason to believe that the garnishee has property of the debtor which are not exempt from execution.

7. No financial institution shall have a duty to investigate, respond to, or assert any defenses of a judgment debtor.

8. A financial institution served an order of garnishment and interrogatories under this section shall answer within twenty days. Funds shall be released to the judgment debtor sixty days after an answer is submitted, or sooner if required under an order to pay, or paid into the court if objections are filed by the judgment debtor and the financial institution is served with a copy of the objections.

9. This section does not apply to wage garnishments or to garnishments of property other than account funds held by a financial institution and a garnishment issued under this section does not require a garnishee to search for, hold, or return wages or other property. A garnishment under this section does not require a garnishee to report or hold or respond to interrogatories not related to account funds.

10. This section does not limit the authority of a garnishor to obtain and issue an order of garnishment and interrogatories for wages or for property, other than account funds, held by a financial institution pursuant to law and the rules of the Missouri supreme court.

11. The provisions of subsections 1 to 10 of this section shall be effective January 1, 2028.

12. The provisions of this section shall be implemented and administered in accordance with rules of the Missouri supreme court.

Section B. The enactment of section 513.423 and the repeal and reenactment of sections 513.380, 513.430, and 513.475 of this act shall become effective on January 1, 2027.