

SECOND REGULAR SESSION

SENATE BILL NO. 835

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

5285S.02I

KRISTINA MARTIN, Secretary

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.

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,
2 are repealed and five new sections enacted in lieu thereof, to
3 be known as sections 513.380, 513.423, 513.430, 513.475, and
4 525.235, to read as follows:

513.380. 1. [Whenever an execution against the
2 property of any judgment debtor, individual or corporate,
3 issued from any court in this state, shall be returned
4 unsatisfied, in whole or in part, by any sheriff or other
5 proper officer, the] **A** judgment creditor [in such execution,
6 his executor, administrator or assign, may,] **shall upon**
7 **motion made** at any time [within five years after such return
8 so made] **before the judgment has been satisfied of record by**
9 **the judgment creditor and before the judgment being presumed**
10 **paid and satisfied under section 516.350**, be entitled to an
11 order by the court rendering such judgment, requiring the
12 judgment debtor or, in the case of a corporate judgment
13 debtor, its chief officer to appear before such court at a
14 time and place in said order to be named, to undergo an
15 examination under oath touching his **or her** ability and means
16 to satisfy said judgment, and in case of neglect or refusal

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

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

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

12 2. Not later than March 1, 2029, and at each three-
13 year interval ending on March first thereafter, the Missouri
14 supreme court shall adopt a rule with the dollar amounts
15 that will become effective on such April first under
16 sections 513.430 and 513.475.

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

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

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

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

15 (3) Any other property of any kind, not to exceed in
16 value **[six] one thousand seven** hundred dollars in the
17 aggregate;

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

22 (5) Any motor vehicles, not to exceed **[three] five**
23 thousand dollars in value in the aggregate **plus up to ten**
24 **thousand dollars of any unused amount of the exemption**
25 **provided under subdivision (1) of this subsection may be**
26 **allocated to a motor vehicle;**

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

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

37 (8) The amount of any accrued dividend or interest
38 under, or loan value of, any one or more unmatured life
39 insurance contracts owned by such person under which the
40 insured is such person or an individual of whom such person
41 is a dependent; provided, however, that if proceedings under
42 Title 11 of the United States Code are commenced by or
43 against such person, the amount exempt in such proceedings
44 shall not exceed in value one hundred fifty thousand dollars
45 in the aggregate less any amount of property of such person
46 transferred by the life insurance company or fraternal
47 benefit society to itself in good faith if such transfer is
48 to pay a premium or to carry out a nonforfeiture insurance
49 option and is required to be so transferred automatically
50 under a life insurance contract with such company or society
51 that was entered into before commencement of such
52 proceedings. No amount of any accrued dividend or interest
53 under, or loan value of, any such life insurance contracts

54 shall be exempt from any claim for child support.
55 Notwithstanding anything to the contrary, no such amount
56 shall be exempt in such proceedings under any such insurance
57 contract which was purchased by such person within one year
58 prior to the commencement of such proceedings;

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

61 (10) Such person's right to receive:

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

64 (b) A veteran's benefit;

65 (c) A disability, illness or unemployment benefit;

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

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

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

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

84 (iii) Such plan or contract does not qualify under
85 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 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] thirty** 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

8 section shall not be allowed for more than one owner of any
9 homestead if one owner claims the entire amount allowed
10 under this subsection; but, if more than one owner of any
11 homestead claims an exemption under this section, the
12 exemption allowed to each of such owners shall not exceed,
13 in the aggregate, the total exemption allowed under this
14 subsection as to any one homestead.

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

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

4 **2. All orders of garnishment issued in this state for**
5 **the purpose of attaching to account funds on deposit held by**
6 **a financial institution shall be issued only under this**
7 **section and shall attach only to such funds held by the**
8 **financial institution on the date of service on the**
9 **financial institution, provided the effective date of**
10 **service shall be a banking day and provided service is made**
11 **prior to the financial institution's business cutoff time,**
12 **otherwise the service on the financial institution shall be**
13 **effective on the next banking day. If an account receives**
14 **electronic deposits of exempt protected funds, including,**
15 **but not limited to, funds described under subdivision (10)**
16 **of subsection 1 of section 513.430, the attachment date for**
17 **such account shall be the date and banking day that the**

18 financial institution applies for the federally required
19 look-back analysis to determine the protected amount. The
20 return date for orders of garnishment under this section
21 shall not be less than thirty days from the effective date
22 of service.

23 3. All orders of garnishment issued in this state for
24 the purpose of attaching to account funds held by a
25 financial institution shall include the judgment debtor's
26 address and the last four digits of the debtor's tax
27 identification number, if known, and shall specify the
28 amount of funds to be withheld by the garnishee.

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

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

45 6. No party shall seek an order of garnishment
46 attaching to account funds held by a financial institution
47 except on good faith belief of the party seeking garnishment
48 that the party to be served with the garnishment order has,
49 or will have, account assets of the judgment debtor. Except

50 as provided in this subsection, not more than one
51 garnishment shall be issued by a party seeking an order of
52 garnishment under this section for the same garnishee
53 applicable to the same claim or claims and against the same
54 judgment debtor in any thirty-day period. A judge may order
55 an exception to this subsection in any case in which the
56 party seeking the garnishment shall in person or by attorney:

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

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

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

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

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

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

86 11. The provisions of subsections 1 to 10 of this
87 section shall be effective January 1, 2027.

88 12. The Missouri supreme court shall adopt rules or
89 amendments to a rule and provide appropriate forms and
90 interrogatories to implement this section prior to January
91 1, 2027.

 Section B. The enactment of section 513.423 and the
2 repeal and reenactment of sections 513.380, 513.430, and
3 513.475 of this act shall become effective on January 1,
4 2027.

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