

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILLS NOS. 835 & 1111

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

5285S.05P

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Section A. Sections 513.380, 513.430, and 513.475, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 513.380, 513.423, 513.430, 513.475, and 525.235, to read as follows: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

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

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  
17 on the part of such judgment debtor or, in the case of a  
18 corporate debtor, its chief officer to obey such order, such  
19 court is hereby authorized to issue a writ of attachment  
20 against said debtor, as now provided by law, and to punish  
21 him or, in the case of a corporate debtor, its chief officer  
22 for contempt.

23 2. [Any prosecuting attorney or circuit attorney may  
24 grant use immunity from prosecution to a judgment debtor for  
25 any statement made at a judgment debtor's examination  
26 conducted pursuant to subsection 1 of this section. Such  
27 use immunity from prosecution shall protect such person from  
28 prosecution for any offense related to the content of the  
29 statements made] **For any statement made at a judgment  
30 debtor's examination and conducted pursuant to subsection 1  
31 of this section, a judgment debtor shall enjoy full use  
32 immunity and derivative use immunity from prosecution  
33 coextensive with their constitutional privilege against self-  
34 incrimination. No testimony or other information directly  
35 or indirectly derived therefrom, compelled under subsection  
36 1 of this section, may be used against the witness in any  
37 criminal case, except a prosecution for perjury or giving a  
38 false statement.**

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

5 (1) To reflect the change in the Consumer Price Index  
6 for All Urban Consumers, published by the United States  
7 Department of Labor, or its successor index, for the most

8 recent three-year period ending immediately before January  
9 first preceding such April first; and

10 (2) 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 revisor  
14 of statutes shall publish a schedule of adjusted dollar  
15 amounts, which will become effective on such April first,  
16 annually in an appendix to the revised statutes of  
17 Missouri. The revisor of statutes shall place a revisor's  
18 note following section 513.430 or 513.475 referencing the  
19 appendix of the adjusted dollar amount.

20 3. Adjustments made in accordance with subsection 1 of  
21 this section shall not apply with respect to cases commenced  
22 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  
86 Internal Revenue Code of 1986, as amended, (26 U.S.C.  
87 Section 401(a), 403(a), 403(b), 408, 408A or 409).

88           b. Notwithstanding the exemption provided in  
89 subparagraph a. of this paragraph, any such payment to any  
90 person shall be subject to attachment or execution pursuant  
91 to a qualified domestic relations order, as defined by  
92 Section 414(p) of the Internal Revenue Code of 1986 (26  
93 U.S.C. Section 414(p)), as amended, issued by a court in any  
94 proceeding for dissolution of marriage or legal separation  
95 or a proceeding for disposition of property following  
96 dissolution of marriage by a court which lacked personal  
97 jurisdiction over the absent spouse or lacked jurisdiction  
98 to dispose of marital property at the time of the original  
99 judgment of dissolution;

100           (f) Any money or assets, payable to a participant or  
101 beneficiary from, or any interest of any participant or  
102 beneficiary in, a retirement plan, profit-sharing plan,  
103 health savings [plan] **account**, or similar plan, including an  
104 inherited account or plan, that is qualified under Section  
105 **223**, 401(a), 403(a), 403(b), 408, 408A or 409 of the  
106 Internal Revenue Code of 1986 (26 U.S.C. Section **223**,  
107 401(a), 403(a), 403(b), 408, 408A, or 409), as amended,  
108 whether such participant's or beneficiary's interest arises  
109 by inheritance, designation, appointment, or otherwise,  
110 except as provided in this paragraph. Any plan or  
111 arrangement described in this paragraph shall not be exempt  
112 from the claim of an alternate payee under a qualified  
113 domestic relations order; however, the interest of any and

114 all alternate payees under a qualified domestic relations  
115 order shall be exempt from any and all claims of any  
116 creditor, other than the state of Missouri through its  
117 department of social services. As used in this paragraph,  
118 the terms "alternate payee" and "qualified domestic  
119 relations order" have the meaning given to them in Section  
120 414(p) of the Internal Revenue Code of 1986 (26 U.S.C.  
121 Section 414(p)), as amended. If proceedings under Title 11  
122 of the United States Code are commenced by or against such  
123 person, no amount of funds shall be exempt in such  
124 proceedings under any such plan, contract, or trust which is  
125 fraudulent as defined in subsection 2 of section 428.024 and  
126 for the period such person participated within three years  
127 prior to the commencement of such proceedings. For the  
128 purposes of this section, when the fraudulently conveyed  
129 funds are recovered and after, such funds shall be deducted  
130 and then treated as though the funds had never been  
131 contributed to the plan, contract, or trust;

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

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

140 (13) Any moneys accruing to and deposited in  
141 individual savings accounts or individual deposit accounts  
142 under sections 166.400 to 166.456 or sections 166.500 to  
143 166.529, subject to the following provisions:

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

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

149 (b) Except as provided by paragraph (c) of this  
150 subdivision, if the designated beneficiary of an individual  
151 savings account or individual deposit account established  
152 under sections 166.400 to 166.456 or sections 166.500 to  
153 166.529 is a lineal descendant of the account owner, all  
154 moneys in the account shall be exempt from any claims of  
155 creditors of the account owner or designated beneficiary;

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

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

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

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

513.475. 1. The homestead of every person, consisting  
2 of a dwelling house and appurtenances, and the land used in  
3 connection therewith, not exceeding the **aggregate** value of  
4 **[fifteen] forty** thousand dollars, which is or shall be used

5 by such person as a homestead, shall, together with the  
6 rents, issues and products thereof, be exempt from  
7 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 accounts identified in the order of garnishment and  
34 such accounts may have a different attachment date if  
35 necessary for the 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. The garnishee shall provide a copy of the  
43 order of garnishment to each account holder within two days  
44 to the address provided to the garnishee by each account  
45 holder by mail or electronically if authorized by the  
46 account holder. Each account holder may file an objection

47 or request of exemption of all or a portion of the account  
48 with the court that issued the order of garnishment within  
49 thirty days of the date the garnishment attaches and serve  
50 their objection or request for exemption on the garnishor  
51 and the garnishee. If the objection or request of exemption  
52 is not resolved within thirty days, the garnishee may pay  
53 the garnished funds to the circuit court to be held for  
54 pending resolution of the objection or request. The  
55 garnishee shall not be liable to the joint owners if the  
56 ownership of the funds is later proven not to be the  
57 judgment debtor's.

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

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

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

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

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

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

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

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

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

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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