

SECOND REGULAR SESSION

HOUSE BILL NO. 1170

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BURNETT.

Pre-filed December 21, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3673L.02I

AN ACT

To repeal section 525.030, RSMo, and to enact in lieu thereof one new section relating to garnishment.

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

Section A. Section 525.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 525.030, to read as follows:

525.030. 1. No sheriff or other officer charged with the collection of money shall, prior to the return day of an execution or other process upon which the same may be made, be liable to be summoned as garnishee; nor shall any county collector, county treasurer or municipal corporation, or any officer thereof, or any administrator or executor of an estate, prior to an order of distribution, or for payment of legacies, or the allowance of a demand found to be due by his **or her** estate, be liable to be summoned as garnishee; nor shall any person be so charged by reason of his **or her** having drawn, accepted, made or endorsed any promissory note, bill of exchange, draft or other security, in its nature negotiable, unless it be shown at the hearing that such note, bill or other security was the property of the defendant when the garnishee was summoned, and continued so to be until it became due.

2. The maximum part of the aggregate earnings of any individual for any workweek, after the deduction from those earnings of any amounts required by law to be withheld, which is subjected to garnishment [may] **shall** not exceed [(a)]:

(1) Twenty-five [percentum, or, (b)] **percent; or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (2) The amount by which his **or her** aggregate earnings for that week, after the deduction
16 from those earnings of any amounts required to be withheld by law, exceed thirty times the
17 federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of
18 1938 in effect at the time the earnings are payable[, or, (c)]; **or**

19 (3) If the employee is the head of a family and a resident of this state, ten [percentum]
20 **percent,**

21

22 whichever is less.

23 **3. (1)** The restrictions on the maximum earnings subjected to garnishment do not apply
24 in the case of any order of any court for the support of any person, any order of any court of
25 bankruptcy under chapter XIII of the Bankruptcy Act or any debt due for any state or federal tax.

26 (2) For pay periods longer than one week, the provisions of [subsection 2(a) and (c)]
27 **subdivisions (1) and (3) of subsection 2** of this section shall apply to the maximum earnings
28 subjected to garnishment for all workweeks compensated, and under [subsection 2(b)]
29 **subdivision (2) of subsection 2** of this section, the "multiple" of the federal minimum hourly
30 wage equivalent to that applicable to the earnings subject to garnishment for one week shall be
31 represented by the following formula: The number of workweeks or fractions thereof (x) x 30
32 x the applicable federal minimum wage. For the purpose of this formula, a calendar month shall
33 be considered to consist of 4 1/3 workweeks, a semimonthly period to consist of 2 1/6 weeks.
34 The "multiple" for any other pay period longer than one week shall be computed in a manner
35 consistent herewith.

36 (3) The restrictions on the maximum amount of earnings subjected to garnishment shall
37 also be applicable to all proceedings involving the sequestration of wages of employees of all
38 political subdivisions.

39 (4) The term "earnings" as used herein means compensation paid or payable for personal
40 services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes
41 periodic payments pursuant to a pension or retirement program.

42 [3.] **4.** In any proceeding of garnishment or sequestration of wages under the provisions
43 of sections 525.010 to 525.480, the maximum part of the aggregate earnings of any individual
44 in any workweek which shall be subject to garnishment or sequestration pursuant to the
45 provisions of [subsection 2] **subsections 2 and 3** of this section shall be construed to constitute
46 all wages or earnings of the defendant in the garnishee's possession or charge or to be owing by
47 him **or her** to the defendant in that week.

48 [4. No notice, summons, or writ of garnishment, or sequestration of wages issued or
49 served under sections 525.010 to 525.480 shall attach or purport to attach any wages in excess
50 of the amounts prescribed in subsection 2 of this section and each such notice, summons, or writ

51 shall have clearly and legibly reproduced thereon the provisions of subsections 2, 5 and 6 of this
52 section.]

53 **5. (1) The proceeds of an individual's right to receive benefits or funds specified**
54 **as exempt in subdivision (10) of subsection 1 of section 513.430, RSMo, and wages paid to**
55 **an employee and deposited into a bank account owned, in whole or in part, by such**
56 **employee shall not be subject to garnishment. As used in this section, "bank account"**
57 **includes deposit accounts at any bank, savings and loan association, credit union, or other**
58 **financial institution providing checking or savings accounts.**

59 **(2) The bank accounts of every individual shall be exempt from garnishment to the**
60 **extent of the amount of personal exemptions specified in subdivision (3) of subsection 1 of**
61 **section 513.430, RSMo, and no such moneys shall be subject to garnishment.**

62 **(3) No moneys in a bank account owned, in whole or in part, by the head of a**
63 **family, as defined in and specified as exempt under section 513.430, RSMo, shall be subject**
64 **to garnishment.**

65 **(4) For a bank account owned by a judgment debtor and one or more other**
66 **persons, the amount protected under this subsection shall be determined by multiplying**
67 **the amount specified as exempt for one individual by the total number of owners of such**
68 **bank account.**

69 **(5) The debtor shall be entitled to the exemptions specified in this section with**
70 **respect to the debtor's bank accounts, whether or not the debtor has filed a request with**
71 **the levying officer as provided in subsection 2 of section 513.445, RSMo.**

72 **(6) Every bank, credit union, or other financial institution summoned as garnishee**
73 **shall promptly notify the debtor of the imposition of a garnishment which could affect any**
74 **bank account owned, in whole or in part, by such debtor, and shall assist the debtor in**
75 **identifying and claiming exemptions. The bank, credit union, or financial institution may**
76 **determine by any reasonable means the extent of its right and duty to protect an account**
77 **from garnishment under this section. Each individual's right to the basic personal**
78 **exemption provided in subdivision (3) of subsection 1 of section 513.430, RSMo, shall be**
79 **automatically recognized and protected. The debtor shall be required to claim eligibility**
80 **for any other exemptions. If the debtor wishes to claim an exemption for wages, a head of**
81 **family exemption under section 513.440, RSMo, or benefits under subdivision (10) of**
82 **subsection 1 of section 513.430, RSMo, the bank, credit union, or financial institution shall**
83 **provide the debtor with a simple claim form and offer to assist the debtor in completing**
84 **such form. Such form shall identify the debtor, the case number, the sources and amounts**
85 **of exempt moneys contained in the debtor's bank accounts, and the number of such**

86 debtor's unmarried dependent children under eighteen years of age, if any, and shall be
87 signed by the debtor.

88 (7) Upon completion and signing of an exemption claim form, the bank, credit
89 union, or financial institution shall serve a copy of such claim form upon the party
90 requesting garnishment, who shall have ten days from the date of service to file a request
91 for court review, serving a copy upon the debtor and the bank, credit union, or financial
92 institution. If a request for court review is not timely filed and served, the bank, credit
93 union, or financial institution shall honor the debtor's claimed exemptions, immediately
94 release exempt moneys to the debtor, and remit only nonexempt moneys under the
95 garnishment.

96 (8) No action for damages shall lie against and no penalty shall be assessed or
97 imposed upon any bank, credit union, or financial institution for acting in good faith to
98 protect exempt moneys in a bank account from garnishment.

99 6. No notice, summons, or writ of garnishment or sequestration of wages issued or
100 served under sections 525.010 to 525.480 shall attach or purport to attach any wages or
101 bank accounts in excess of the limits prescribed in subsections 2 and 3 of this section and
102 subdivisions (1) to (4) of subsection 5 of this section. Each notice, summons, or writ shall
103 contain the clearly and legibly reproduced provisions of subsections 2 and 3 of this section,
104 subdivisions (1) to (4) of subsection 5 of this section, and subsections 7 and 8 of this section.

105 7. No employer [may] shall discharge any employee by reason of the fact that [his] the
106 employee's earnings have been subjected to garnishment or sequestration for any one
107 indebtedness.

108 [6. Whoever willfully violates the provisions of subsection 5 of this section is guilty of
109 a misdemeanor.]

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