

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1870

103RD GENERAL ASSEMBLY

4824H.05P

JOSEPH ENGLER, Chief Clerk

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Section A. Sections 513.380, 513.430, and 513.475, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 513.380, 513.423, 513.430, 513.475, and 525.235, to read as follows: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

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

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

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

8           **(2) To round to the nearest twenty-five dollars, the dollar amount that represents**  
9 **such change.**

10           **2. Not later than March 1, 2029, and at each three-year interval ending on**  
11 **March first thereafter, the revisor of statutes shall publish a schedule of adjusted dollar**  
12 **amounts, which will become effective on such April first, annually in an appendix to the**  
13 **revised statutes of Missouri. The revisor of statutes shall place a revisor's note following**  
14 **section 513.430 or section 513.475 referencing the appendix of adjusted dollar amounts.**

15           **3. Adjustments made in accordance with subsection 1 of this section shall not**  
16 **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**  
2 **to the extent of any person's interest therein:**

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

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

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

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

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

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

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

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

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

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

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

44 (b) A veteran's benefit;

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

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

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

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

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

58 (iii) Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408,  
59 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. Section 401(a),  
60 403(a), 403(b), 408, 408A or 409).

61 b. Notwithstanding the exemption provided in subparagraph a. of this paragraph, any  
62 such payment to any person shall be subject to attachment or execution pursuant to a qualified  
63 domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986  
64 (26 U.S.C. Section 414(p)), as amended, issued by a court in any proceeding for dissolution  
65 of marriage or legal separation or a proceeding for disposition of property following  
66 dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse  
67 or lacked jurisdiction to dispose of marital property at the time of the original judgment of  
68 dissolution;

69 (f) Any money or assets, payable to a participant or beneficiary from, or any interest  
70 of any participant or beneficiary in, a retirement plan, profit-sharing plan, health savings  
71 ~~[plan]~~ **account**, or similar plan, including an inherited account or plan, that is qualified under  
72 Section **223**, 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986  
73 (26 U.S.C. Section **223**, 401(a), 403(a), 403(b), 408, 408A, or 409), as amended, whether  
74 such participant's or beneficiary's interest arises by inheritance, designation, appointment, or  
75 otherwise, except as provided in this paragraph. Any plan or arrangement described in this  
76 paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic  
77 relations order; however, the interest of any and all alternate payees under a qualified  
78 domestic relations order shall be exempt from any and all claims of any creditor, other than  
79 the state of Missouri through its department of social services. As used in this paragraph, the  
80 terms "alternate payee" and "qualified domestic relations order" have the meaning given to  
81 them in Section 414(p) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414(p)), as  
82 amended. If proceedings under Title 11 of the United States Code are commenced by or  
83 against such person, no amount of funds shall be exempt in such proceedings under any such  
84 plan, contract, or trust which is fraudulent as defined in subsection 2 of section 428.024 and

85 for the period such person participated within three years prior to the commencement of such  
86 proceedings. For the purposes of this section, when the fraudulently conveyed funds are  
87 recovered and after, such funds shall be deducted and then treated as though the funds had  
88 never been contributed to the plan, contract, or trust;

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

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

94 (13) Any moneys accruing to and deposited in individual savings accounts or  
95 individual deposit accounts under sections 166.400 to 166.456 or sections 166.500 to  
96 166.529, subject to the following provisions:

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

98 a. Is filed on or after January 1, 2022; or

99 b. Was filed before January 1, 2022, and is pending or on appeal after January 1,  
100 2022;

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

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

107 a. Claims of any creditor of an account owner as to amounts contributed within a two-  
108 year period preceding the date of the filing of a bankruptcy petition under 11 U.S.C. Section  
109 101 et seq., as amended; or

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

112 2. Nothing in this section shall be interpreted to exempt from attachment or execution  
113 for a valid judicial or administrative order for the payment of child support or maintenance  
114 any money or assets, payable to a participant or beneficiary from, or any interest of any  
115 participant or beneficiary in, a retirement plan which is qualified pursuant to Sections 408 and  
116 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  
2 appurtenances, and the land used in connection therewith, not exceeding the **aggregate** value  
3 of ~~fifteen~~ **forty** thousand dollars, which is or shall be used by such person as a homestead,  
4 shall, together with the rents, issues and products thereof, be exempt from attachment and  
5 execution. The exemption allowed under this section shall not be allowed for more than one

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

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

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

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

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

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

24 **5. If an order of garnishment attaches to account funds held by a financial  
25 institution and the garnishee holds funds of the judgment debtor in an account which  
26 the judgment debtor owns in joint tenancy with one or more individuals who are not  
27 subject to the garnishment, the garnishee shall withhold the entire amount sought by the**

28 garnishment. The garnishee shall provide a copy of the order of garnishment to each  
29 account holder within two business days to the address provided to the garnishee by  
30 each account holder by mail or electronically if authorized by the account holder. Each  
31 account holder may file an objection or request of exemption of all or a portion of the  
32 account with the court that issued the order of garnishment within thirty days of the  
33 date the garnishment attaches and serve their objection or request for exemption on the  
34 garnishor and the garnishee. If the objection or request of exemption is not resolved  
35 within thirty days of the timely filing of the objection or request of exemption, the  
36 garnishee may pay the garnished funds to the circuit court to be held for pending  
37 resolution of the objection or request.

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

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

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

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

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

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

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

68           **11. (1) A garnishee acting in good faith compliance with a facially valid order of**  
69 **garnishment under this section shall not be liable to any debtor, creditor, or other**  
70 **person for withholding, restraining or releasing funds in reasonable reliance upon the**  
71 **terms of the writ or order.**

72           **(2) A garnishee shall not be required to:**

73           **(a) Adjudicate competing claims of ownership to property or funds;**

74           **(b) Determine the legal sufficiency or validity of the underlying judgment; or**

75           **(c) Investigate facts outside the information contained in the writ or the**  
76 **garnishee's business records.**

77           **(3) A garnishee shall be liable for damages arising from a garnishment only if:**

78           **(a) The garnishee fails to follow the clear and express terms of the writ of order;**

79           **(b) Such failure constitutes gross negligence or willful misconduct; and**

80           **(c) Actual damages are proven.**

81           **(4) A garnishee shall not be liable if the garnishee corrects an error within five**  
82 **business days after receiving written notice identifying the alleged error and promptly**  
83 **releases any improperly restrained funds.**

84           **(5) Temporary restraint of funds pending review of a claimed exemption shall**  
85 **not create liability if the garnishee, garnishor, and judgment debtor or other persons act**  
86 **within time frames required by law.**

87           **12. The provisions of subsections 1 to 11 of this section shall be effective January**  
88 **1, 2028.**

89           **13. The provisions of this section shall be implemented and administered in**  
90 **accordance with rules of the Missouri supreme court.**

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

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