

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR

HOUSE BILL NO. 2290

95TH GENERAL ASSEMBLY

5322S.02T

2010

AN ACT

To repeal section 208.010, RSMo, and to enact in lieu thereof two new sections relating to public assistance benefits.

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

Section A. Section 208.010, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 208.010 and 208.046, to read as follows:

208.010. 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the division of family services to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the division of family services; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the

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.

17 division) of such husband or wife living separately. In determining the need of a claimant in
18 federally aided programs there shall be disregarded such amounts per month of earned income
19 in making such determination as shall be required for federal participation by the provisions of
20 the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When
21 federal law or regulations require the exemption of other income or resources, the division of
22 family services may provide by rule or regulation the amount of income or resources to be
23 disregarded.

24 2. Benefits shall not be payable to any claimant who:

25 (1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given
26 away or sold a resource within the time and in the manner specified in this subdivision. In
27 determining the resources of an individual, unless prohibited by federal statutes or regulations,
28 there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this
29 subsection, and subsection 5 of this section) any resource or interest therein owned by such
30 individual or spouse within the twenty-four months preceding the initial investigation, or at any
31 time during which benefits are being drawn, if such individual or spouse gave away or sold such
32 resource or interest within such period of time at less than fair market value of such resource or
33 interest for the purpose of establishing eligibility for benefits, including but not limited to
34 benefits based on December, 1973, eligibility requirements, as follows:

35 (a) Any transaction described in this subdivision shall be presumed to have been for the
36 purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such
37 individual furnishes convincing evidence to establish that the transaction was exclusively for
38 some other purpose;

39 (b) The resource shall be considered in determining eligibility from the date of the
40 transfer for the number of months the uncompensated value of the disposed of resource is
41 divisible by the average monthly grant paid or average Medicaid payment in the state at the time
42 of the investigation to an individual or on his or her behalf under the program for which benefits
43 are claimed, provided that:

44 a. When the uncompensated value is twelve thousand dollars or less, the resource shall
45 not be used in determining eligibility for more than twenty-four months; or

46 b. When the uncompensated value exceeds twelve thousand dollars, the resource shall
47 not be used in determining eligibility for more than sixty months;

48 (2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other
49 than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes
50 convincing evidence that the uncompensated value of the disposed of resource or any part thereof
51 is no longer possessed or owned by the person to whom the resource was transferred;

52 (3) Has received, or whose spouse with whom he or she is living has received, benefits
53 to which he or she was not entitled through misrepresentation or nondisclosure of material facts
54 or failure to report any change in status or correct information with respect to property or income
55 as required by section 208.210. A claimant ineligible pursuant to this subsection shall be
56 ineligible for such period of time from the date of discovery as the division of family services
57 may deem proper; or in the case of overpayment of benefits, future benefits may be decreased,
58 suspended or entirely withdrawn for such period of time as the division may deem proper;

59 (4) Owns or possesses resources in the sum of one thousand dollars or more; provided,
60 however, that if such person is married and living with spouse, he or she, or they, individually
61 or jointly, may own resources not to exceed two thousand dollars; and provided further, that in
62 the case of a temporary assistance for needy families claimant, the provision of this subsection
63 shall not apply;

64 (5) Prior to October 1, 1989, owns or possesses property of any kind or character,
65 excluding amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to
66 subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053,
67 RSMO] **under chapter 436**, or has an interest in property, of which he or she is the record or
68 beneficial owner, the value of such property, as determined by the division of family services,
69 less encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually
70 living together with husband or wife, if the value of his or her property, or the value of his or her
71 interest in property, together with that of such husband and wife, exceeds such amount;

72 (6) In the case of temporary assistance for needy families, if the parent, stepparent, and
73 child or children in the home owns or possesses property of any kind or character, or has an
74 interest in property for which he or she is a record or beneficial owner, the value of such
75 property, as determined by the division of family services and as allowed by federal law or
76 regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home
77 occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract
78 [pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of
79 section 436.053, RSMO] **under chapter 436**, one automobile which shall not exceed a value set
80 forth by federal law or regulation and for a period not to exceed six months, such other real
81 property which the family is making a good-faith effort to sell, if the family agrees in writing
82 with the division of family services to sell such property and from the net proceeds of the sale
83 repay the amount of assistance received during such period. If the property has not been sold
84 within six months, or if eligibility terminates for any other reason, the entire amount of assistance
85 paid during such period shall be a debt due the state;

86 (7) Is an inmate of a public institution, except as a patient in a public medical institution.

87 3. In determining eligibility and the amount of benefits to be granted pursuant to
88 federally aided programs, the income and resources of a relative or other person living in the
89 home shall be taken into account to the extent the income, resources, support and maintenance
90 are allowed by federal law or regulation to be considered.

91 4. In determining eligibility and the amount of benefits to be granted pursuant to
92 federally aided programs, the value of burial lots or any amounts placed in an irrevocable
93 prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and
94 subdivision (5) of subsection 1 of section 436.053, RSMO,] **under chapter 436** shall not be
95 taken into account or considered an asset of the burial lot owner or the beneficiary of an
96 irrevocable prearranged funeral or funeral contract. For purposes of this section, "burial lots"
97 means any burial space as defined in section 214.270[, RSMo,] and any memorial, monument,
98 marker, tombstone or letter marking a burial space. If the beneficiary, as defined in chapter 436,
99 [RSMo,] of an irrevocable prearranged funeral or burial contract receives any public assistance
100 benefits pursuant to this chapter and if the purchaser of such contract or his or her successors in
101 interest cancel or amend the contract so that any person will be entitled to a refund, such refund
102 shall be paid to the state of Missouri up to the amount of public assistance benefits provided
103 pursuant to this chapter with any remainder to be paid to those persons designated in chapter
104 436[, RSMO].

105 5. In determining the total property owned pursuant to subdivision (5) of subsection 2
106 of this section, or resources, of any person claiming or for whom public assistance is claimed,
107 there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or
108 any two or more policies or contracts, or any combination of policies and contracts, which
109 provides for the payment of one thousand five hundred dollars or less upon the death of any of
110 the following:

111 (1) A claimant or person for whom benefits are claimed; or

112 (2) The spouse of a claimant or person for whom benefits are claimed with whom he or
113 she is living. If the value of such policies exceeds one thousand five hundred dollars, then the
114 total value of such policies may be considered in determining resources; except that, in the case
115 of temporary assistance for needy families, there shall be disregarded any prearranged funeral
116 or burial contract, or any two or more contracts, which provides for the payment of one thousand
117 five hundred dollars or less per family member.

118 6. Beginning September 30, 1989, when determining the eligibility of institutionalized
119 spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for
120 in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall
121 comply with the provisions of the federal statutes and regulations. As necessary, the division
122 shall by rule or regulation implement the federal law and regulations which shall include but not

123 be limited to the establishment of income and resource standards and limitations. The division
124 shall require:

125 (1) That at the beginning of a period of continuous institutionalization that is expected
126 to last for thirty days or more, the institutionalized spouse, or the community spouse, may request
127 an assessment by the division of family services of total countable resources owned by either or
128 both spouses;

129 (2) That the assessed resources of the institutionalized spouse and the community spouse
130 may be allocated so that each receives an equal share;

131 (3) That upon an initial eligibility determination, if the community spouse's share does
132 not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the
133 community spouse a resource allowance to increase the community spouse's share to twelve
134 thousand dollars;

135 (4) That in the determination of initial eligibility of the institutionalized spouse, no
136 resources attributed to the community spouse shall be used in determining the eligibility of the
137 institutionalized spouse, except to the extent that the resources attributed to the community
138 spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section
139 1396r-5;

140 (5) That beginning in January, 1990, the amount specified in subdivision (3) of this
141 subsection shall be increased by the percentage increase in the Consumer Price Index for All
142 Urban Consumers between September, 1988, and the September before the calendar year
143 involved; and

144 (6) That beginning the month after initial eligibility for the institutionalized spouse is
145 determined, the resources of the community spouse shall not be considered available to the
146 institutionalized spouse during that continuous period of institutionalization.

147 7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods
148 required and for the reasons specified in 42 U.S.C. Section 1396p.

149 8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to
150 the provisions of section 208.080.

151 9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to
152 this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the
153 home of the applicant or recipient when the home is providing shelter to the applicant or
154 recipient, or his or her spouse or dependent child. The division of family services shall establish
155 by rule or regulation in conformance with applicable federal statutes and regulations a definition
156 of the home and when the home shall be considered a resource that shall be considered in
157 determining eligibility.

158 10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient
159 who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary
160 Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts
161 as determined due pursuant to the applicable provisions of federal regulations pertaining to Title
162 XVIII Medicare Part B, except the applicable Title XIX cost sharing.

163 11. A "community spouse" is defined as being the noninstitutionalized spouse.

164 12. An institutionalized spouse applying for Medicaid and having a spouse living in the
165 community shall be required, to the maximum extent permitted by law, to divert income to such
166 community spouse to raise the community spouse's income to the level of the minimum monthly
167 needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall
168 occur before the community spouse is allowed to retain assets in excess of the community spouse
169 protected amount described in 42 U.S.C. Section 1396r-5.

**208.046. 1. The children's division shall promulgate rules to become effective no
2 later than July 1, 2011, to modify the income eligibility criteria for any person receiving
3 state-funded child care assistance under this chapter, either through vouchers or direct
4 reimbursement to child care providers, as follows:**

5 **(1) Child care recipients eligible under this chapter and the criteria set forth in 13
6 CSR 35-32.010, may pay a fee based on adjusted gross income and family size unit based
7 on a child care sliding fee scale established by the children's division, which shall be subject
8 to appropriations. However, a person receiving state-funded child care assistance under
9 this chapter and whose income surpasses the annual appropriation level may continue to
10 receive reduced subsidy benefits on a scale established by the children's division, at which
11 time such person will have assumed the full cost of the maximum base child care subsidy
12 rate established by the children's division and shall be no longer eligible for child care
13 subsidy benefits;**

14 **(2) The sliding scale fee may be waived for children with special needs as
15 established by the division; and**

16 **(3) The maximum payment by the division shall be the applicable rate minus the
17 applicable fee.**

18 **2. For purposes of this section, "annual appropriation level" shall mean the
19 maximum income level to be eligible for a full child care benefit as determined through the
20 annual appropriations process.**

21 **3. Any rule or portion of a rule, as that term is defined in section 536.010, that is
22 created under the authority delegated in this section shall become effective only if it
23 complies with and is subject to all of the provisions of chapter 536, and, if applicable,
24 section 536.028. This section and chapter 536, are nonseverable and if any of the powers**

25 **vested with the general assembly pursuant to chapter 536, to review, to delay the effective**
26 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
27 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,**
28 **shall be invalid and void.**

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Speaker of the House

President Pro Tem of the Senate

Governor