

FIRST REGULAR SESSION

SENATE BILL NO. 405

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SATER.

Read 1st time February 27, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1886S.011

AN ACT

To repeal section 208.010, RSMo, and to enact in lieu thereof one new section relating to personal funeral trust accounts.

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

Section A. Section 208.010, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 208.010, to read as follows:

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

93 real property which the family is making a good-faith effort to sell, if the family
94 agrees in writing with the division of family services to sell such property and
95 from the net proceeds of the sale repay the amount of assistance received during
96 such period. If the property has not been sold within six months, or if eligibility
97 terminates for any other reason, the entire amount of assistance paid during such
98 period shall be a debt due the state;

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

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

106 4. In determining eligibility and the amount of benefits to be granted
107 pursuant to federally aided programs, the value of burial lots or any amounts
108 placed in an irrevocable prearranged funeral or burial contract under chapter 436
109 shall not be taken into account or considered an asset of the burial lot owner or
110 the beneficiary of an irrevocable prearranged funeral or funeral contract. For
111 purposes of this section, "burial lots" means any burial space as defined in section
112 214.270 and any memorial, monument, marker, tombstone or letter marking a
113 burial space. If the beneficiary, as defined in chapter 436, of an irrevocable
114 prearranged funeral or burial contract receives any public assistance benefits
115 pursuant to this chapter and if the purchaser of such contract or his or her
116 successors in interest transfer, amend, or take any other such actions regarding
117 the contract so that any person will be entitled to a refund, such refund shall be
118 paid to the state of Missouri with any amount in excess of the public assistance
119 benefits provided under this chapter to be refunded by the state of Missouri to the
120 purchaser or his or her successors. In determining eligibility and the amount of
121 benefits to be granted under federally aided programs, the value of any life
122 insurance policy where a seller or provider is made the beneficiary or where the
123 life insurance policy is assigned to a seller or provider, either being in
124 consideration for an irrevocable prearranged funeral contract under chapter 436,
125 shall not be taken into account or considered an asset of the beneficiary of the
126 irrevocable prearranged funeral contract. **In addition, the value of any**
127 **funds, up to nine thousand nine hundred ninety-nine dollars, placed**
128 **into an irrevocable personal funeral trust account, where the trustee**

129 **of the irrevocable personal funeral trust account is a state or federally**
130 **chartered financial institution authorized to exercise trust powers in**
131 **the state of Missouri, shall not be taken into account or considered an**
132 **asset of the person whose funds are so deposited if such funds are**
133 **restricted to be used only for the burial, funeral, preparation of the**
134 **body, or other final disposition of the person whose funds were**
135 **deposited into said personal funeral trust account. No person or entity**
136 **shall charge more than ten percent of the total amount deposited into**
137 **a personal funeral trust in order to create or set up said personal**
138 **funeral trust, and any fees charged for the maintenance of such a**
139 **personal funeral trust shall not exceed three percent of the trust assets**
140 **annually. Trustees may commingle funds from two or more such**
141 **personal funeral trust accounts so long as accurate books and records**
142 **are kept as to the value, deposits, and disbursements of each individual**
143 **depositor's funds and trustees are to use the prudent investor standard**
144 **as to the investment of any funds placed into a personal funeral trust.**
145 **If the person whose funds are deposited into the personal funeral trust**
146 **account receives any public assistance benefits pursuant to this**
147 **chapter and any funds in the personal funeral trust account are, for**
148 **any reason, not spent on the burial, funeral, preparation of the body,**
149 **or other final disposition of the person whose funds were deposited**
150 **into the trust account, such funds shall be paid to the state of Missouri**
151 **with any amount in excess of the public assistance benefits provided**
152 **under this chapter to be refunded by the state of Missouri to the person**
153 **who received public assistance benefits or his or her successors. No**
154 **contract with any cemetery, funeral establishment, or any provider or**
155 **seller shall be required in regards to funds placed into a personal**
156 **funeral trust account as set out in this subsection.**

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

- 164 (1) A claimant or person for whom benefits are claimed; or
- 165 (2) The spouse of a claimant or person for whom benefits are claimed with