

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 322**  
98TH GENERAL ASSEMBLY

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Reported from the Committee on Veterans' Affairs and Health, March 17, 2015, with recommendation that the Senate Committee Substitute do pass.

1707S.03C

ADRIANE D. CROUSE, Secretary.

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**AN ACT**

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

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*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Section A. Section 208.010, RSMo, is repealed and one new section  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 family support division  
3 to consider and take into account all facts and circumstances surrounding the  
4 claimant, including his or her living conditions, earning capacity, income and  
5 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 shall be  
9 disregarded. The amount of benefits, when added to all other income, resources,  
10 support, and maintenance shall provide such persons with reasonable subsistence  
11 compatible with decency and health in accordance with the standards developed  
12 by the family support division; provided, when a husband and wife are living  
13 together, the combined income and resources of both shall be considered in  
14 determining the eligibility of either or both. "Living together" for the purpose of  
15 this chapter is defined as including a husband and wife separated for the purpose  
16 of obtaining medical care or nursing home care, except that the income of a  
17 husband or wife separated for such purpose shall be considered in determining  
18 the eligibility of his or her spouse, only to the extent that such income exceeds  
19 the amount necessary to meet the needs (as defined by rule or regulation of the  
20 division) of such husband or wife living separately. In determining the need of

21 a claimant in federally aided programs there shall be disregarded such amounts  
22 per month of earned income in making such determination as shall be required  
23 for federal participation by the provisions of the federal Social Security Act (42  
24 U.S.C.A. 301, et seq.), or any amendments thereto. When federal law or  
25 regulations require the exemption of other income or resources, the family  
26 support division may provide by rule or regulation the amount of income or  
27 resources to be disregarded.

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

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

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

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

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

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

56 (2) The provisions of subdivision (1) of this subsection shall not apply to

57 a transfer, other than a transfer to claimant's spouse, made prior to March 26,  
58 1981, when the claimant furnishes convincing evidence that the uncompensated  
59 value of the disposed of resource or any part thereof is no longer possessed or  
60 owned by the person to whom the resource was transferred;

61 (3) Has received, or whose spouse with whom he or she is living has  
62 received, benefits to which he or she was not entitled through misrepresentation  
63 or nondisclosure of material facts or failure to report any change in status or  
64 correct information with respect to property or income as required by section  
65 208.210. A claimant ineligible pursuant to this subsection shall be ineligible for  
66 such period of time from the date of discovery as the family support division may  
67 deem proper; or in the case of overpayment of benefits, future benefits may be  
68 decreased, suspended or entirely withdrawn for such period of time as the  
69 division may deem proper;

70 (4) Owns or possesses resources in the sum of one thousand dollars or  
71 more; provided, however, that if such person is married and living with spouse,  
72 he or she, or they, individually or jointly, may own resources not to exceed two  
73 thousand dollars; and provided further, that in the case of a temporary assistance  
74 for needy families claimant **or a MO HealthNet permanent and total**  
75 **disability claimant**, the provision of this subsection shall not apply;

76 (5) Prior to October 1, 1989, owns or possesses property of any kind or  
77 character, excluding amounts placed in an irrevocable prearranged funeral or  
78 burial contract under chapter 436, or has an interest in property, of which he or  
79 she is the record or beneficial owner, the value of such property, as determined  
80 by the family support division, less encumbrances of record, exceeds twenty-nine  
81 thousand dollars, or if married and actually living together with husband or wife,  
82 if the value of his or her property, or the value of his or her interest in property,  
83 together with that of such husband and wife, exceeds such amount;

84 (6) In the case of temporary assistance for needy families, if the parent,  
85 stepparent, and child or children in the home owns or possesses property of any  
86 kind or character, or has an interest in property for which he or she is a record  
87 or beneficial owner, the value of such property, as determined by the family  
88 support division and as allowed by federal law or regulation, less encumbrances  
89 of record, exceeds one thousand dollars, excluding the home occupied by the  
90 claimant, amounts placed in an irrevocable prearranged funeral or burial contract  
91 under chapter 436, one automobile which shall not exceed a value set forth by  
92 federal law or regulation and for a period not to exceed six months, such other

93 real property which the family is making a good-faith effort to sell, if the family  
94 agrees in writing with the family support division to sell such property and from  
95 the net proceeds of the sale repay the amount of assistance received during such  
96 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) In the case of MO HealthNet permanent and total disability**  
100 **claimants, starting in fiscal year 2016, owns or possesses resources not**  
101 **to exceed two thousand dollars; provided, however, that if such person**  
102 **is married and living with spouse, he or she, or they, individually or**  
103 **jointly, may own resources not to exceed four thousand dollars except**  
104 **for medical savings accounts and independent living accounts as**  
105 **defined and limited in subsection 1 of section 208.146. These resource**  
106 **limits shall be increased annually by one thousand dollars and two**  
107 **thousand dollars respectively until the sum of resources reach the**  
108 **amount of five thousand dollars and ten thousand dollars respectively**  
109 **by fiscal year 2019. On September 30, 2020, and on each September 30**  
110 **of each successive year, the division shall measure the cost of living**  
111 **percentage increase, if any, as of the preceding July over the level as**  
112 **of July of the immediately preceding year of the Consumer Price Index**  
113 **for All Urban Consumers or successor index published by the U.S.**  
114 **Department of Labor or its successor agency, and the sum of resources**  
115 **allowed under this subdivision shall be modified accordingly to reflect**  
116 **any increases in the cost-of-living, with the amount of the resource**  
117 **limit rounded to the nearest five cents;**

118       **(8) Is an inmate of a public institution, except as a patient in a public**  
119 **medical institution.**

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

125       4. In determining eligibility and the amount of benefits to be granted  
126 pursuant to federally aided programs, the value of burial lots or any amounts  
127 placed in an irrevocable prearranged funeral or burial contract under chapter 436  
128 shall not be taken into account or considered an asset of the burial lot owner or

129 the beneficiary of an irrevocable prearranged funeral or funeral contract. For  
130 purposes of this section, "burial lots" means any burial space as defined in section  
131 214.270 and any memorial, monument, marker, tombstone or letter marking a  
132 burial space. If the beneficiary, as defined in chapter 436, of an irrevocable  
133 prearranged funeral or burial contract receives any public assistance benefits  
134 pursuant to this chapter and if the purchaser of such contract or his or her  
135 successors in interest transfer, amend, or take any other such actions regarding  
136 the contract so that any person will be entitled to a refund, such refund shall be  
137 paid to the state of Missouri with any amount in excess of the public assistance  
138 benefits provided under this chapter to be refunded by the state of Missouri to the  
139 purchaser or his or her successors. In determining eligibility and the amount of  
140 benefits to be granted under federally aided programs, the value of any life  
141 insurance policy where a seller or provider is made the beneficiary or where the  
142 life insurance policy is assigned to a seller or provider, either being in  
143 consideration for an irrevocable prearranged funeral contract under chapter 436,  
144 shall not be taken into account or considered an asset of the beneficiary of the  
145 irrevocable prearranged funeral contract. In addition, the value of any funds, up  
146 to nine thousand nine hundred ninety-nine dollars, placed into an irrevocable  
147 personal funeral trust account, where the trustee of the irrevocable personal  
148 funeral trust account is a state or federally chartered financial institution  
149 authorized to exercise trust powers in the state of Missouri, shall not be taken  
150 into account or considered an asset of the person whose funds are so deposited if  
151 such funds are restricted to be used only for the burial, funeral, preparation of  
152 the body, or other final disposition of the person whose funds were deposited into  
153 said personal funeral trust account. No person or entity shall charge more than  
154 ten percent of the total amount deposited into a personal funeral trust in order  
155 to create or set up said personal funeral trust, and any fees charged for the  
156 maintenance of such a personal funeral trust shall not exceed three percent of the  
157 trust assets annually. Trustees may commingle funds from two or more such  
158 personal funeral trust accounts so long as accurate books and records are kept as  
159 to the value, deposits, and disbursements of each individual depositor's funds and  
160 trustees are to use the prudent investor standard as to the investment of any  
161 funds placed into a personal funeral trust. If the person whose funds are  
162 deposited into the personal funeral trust account receives any public assistance  
163 benefits pursuant to this chapter and any funds in the personal funeral trust  
164 account are, for any reason, not spent on the burial, funeral, preparation of the

165 body, or other final disposition of the person whose funds were deposited into the  
166 trust account, such funds shall be paid to the state of Missouri with any amount  
167 in excess of the public assistance benefits provided under this chapter to be  
168 refunded by the state of Missouri to the person who received public assistance  
169 benefits or his or her successors. No contract with any cemetery, funeral  
170 establishment, or any provider or seller shall be required in regards to funds  
171 placed into a personal funeral trust account as set out in this subsection.

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

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

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

187         6. Beginning September 30, 1989, when determining the eligibility of  
188 institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical  
189 assistance benefits as provided for in section 208.151 and 42 U.S.C. Sections  
190 1396a, et seq., the family support division shall comply with the provisions of the  
191 federal statutes and regulations. As necessary, the division shall by rule or  
192 regulation implement the federal law and regulations which shall include but not  
193 be limited to the establishment of income and resource standards and  
194 limitations. The division shall require:

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

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

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

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

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

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

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

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

222 9. Beginning October 1, 1989, when determining eligibility for assistance  
223 pursuant to this chapter there shall be disregarded unless otherwise provided by  
224 federal or state statutes the home of the applicant or recipient when the home is  
225 providing shelter to the applicant or recipient, or his or her spouse or dependent  
226 child. The family support division shall establish by rule or regulation in  
227 conformance with applicable federal statutes and regulations a definition of the  
228 home and when the home shall be considered a resource that shall be considered  
229 in determining eligibility.

230 10. Reimbursement for services provided by an enrolled Medicaid provider  
231 to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare  
232 Part B, Supplementary Medical Insurance (SMI) shall include payment in full of  
233 deductible and coinsurance amounts as determined due pursuant to the  
234 applicable provisions of federal regulations pertaining to Title XVIII Medicare  
235 Part B, except for hospital outpatient services or the applicable Title XIX cost  
236 sharing.

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

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

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Bill

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