

FIRST REGULAR SESSION

# HOUSE BILL NO. 343

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES GUERNSEY (Sponsor), WILSON, SMITH (120), ALLEN, FLANIGAN, FITZWATER, ROWLAND, HICKS, BROWN, FRANKLIN, CONWAY (104), FITZPATRICK, WALKER, WOOD, ROSS, GRISAMORE, AUSTIN, LOVE, CRAWFORD, DUGGER, LANT, BURLISON, NEELY, REIBOLDT AND WIELAND (Co-sponsors).

1096H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 208.010, 208.022, 208.048, and 208.182, RSMo, and to enact in lieu thereof eight new sections relating to public assistance, with penalty provisions.

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

Section A. Sections 208.010, 208.022, 208.048, and 208.182, RSMo, are repealed and  
2 eight new sections enacted in lieu thereof, to be known as sections 208.010, 208.022, 208.048,  
3 208.182, 208.249, 1, 2, and 3, to read as follows:

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

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 be considered in determining the eligibility of his or her spouse, only to the extent that such  
16 income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the  
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 under chapter  
66 436, or has an interest in property, of which he or she is the record or beneficial owner, the value  
67 of such property, as determined by the division of family services, less encumbrances of record,  
68 exceeds twenty-nine thousand dollars, or if married and actually living together with husband  
69 or wife, if the value of his or her property, or the value of his or her interest in property, together  
70 with that of such husband and wife, exceeds such amount;

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

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

85

86           3. In determining eligibility and the amount of benefits to be granted pursuant to  
87 federally aided programs, the income and resources of [a relative or other person] **all relatives,**  
88 **members of the household and any other individuals who are eighteen years of age or older**  
89 **and** living in the home shall be taken into account to the extent the income, resources, support  
90 and maintenance 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 under chapter 436 shall not be taken into account or  
94 considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged  
95 funeral or funeral contract. For purposes of this section, "burial lots" means any burial space as  
96 defined in section 214.270 and any memorial, monument, marker, tombstone or letter marking  
97 a burial space. If the beneficiary, as defined in chapter 436, of an irrevocable prearranged funeral  
98 or burial contract receives any public assistance benefits pursuant to this chapter and if the  
99 purchaser of such contract or his or her successors in interest transfer, amend, or take any other  
100 such actions regarding the contract so that any person will be entitled to a refund, such refund  
101 shall be paid to the state of Missouri with any amount in excess of the public assistance benefits  
102 provided under this chapter to be refunded by the state of Missouri to the purchaser or his or her  
103 successors. In determining eligibility and the amount of benefits to be granted under federally  
104 aided programs, the value of any life insurance policy where a seller or provider is made the  
105 beneficiary or where the life insurance policy is assigned to a seller or provider, either being in  
106 consideration for an irrevocable prearranged funeral contract under chapter 436, shall not be  
107 taken into account or considered an asset of the beneficiary of the irrevocable prearranged funeral  
108 contract.

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

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

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

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

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

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

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

139           (4) That in the determination of initial eligibility of the institutionalized spouse, no  
140 resources attributed to the community spouse shall be used in determining the eligibility of the  
141 institutionalized spouse, except to the extent that the resources attributed to the community  
142 spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section  
143 1396r-5;

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

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

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

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

155           9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to  
156 this chapter there shall be disregarded unless otherwise provided by federal or state statutes the  
157 home of the applicant or recipient when the home is providing shelter to the applicant or

158 recipient, or his or her spouse or dependent child. The division of family services shall establish  
159 by rule or regulation in conformance with applicable federal statutes and regulations a definition  
160 of the home and when the home shall be considered a resource that shall be considered in  
161 determining eligibility.

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

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

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

208.022. All electronic benefits cards distributed to recipients of temporary assistance  
2 for needy families benefits shall have imprinted on the card a photograph of the recipient or  
3 protective payee authorized to use the card and shall expire and be subject to renewal after a  
4 period of three years. **Retail establishments shall be required to verify that the photograph**  
5 **on the card matches the identity of the person presenting the card.** The card shall not be  
6 accepted for use by a retail establishment if the photograph of the recipient does not match the  
7 person presenting the card.

208.048. 1. A dependent child eighteen years of age shall, in order to retain eligibility  
2 for aid to families with dependent children, be enrolled as a full-time student in a public or  
3 private secondary school, or an equivalent level of vocational or technical school in lieu of  
4 secondary school, and reasonably expected to complete the program of the secondary school, or  
5 equivalent vocational or technical training.

6 **2. All recipients of temporary assistance benefits shall be required to provide proof**  
7 **that all dependent children who are eligible for enrollment in a public school are enrolled**  
8 **and attending school regularly.**

9 [2.] 3. The department of social services shall promulgate rules and regulations to carry  
10 out the provisions of this section pursuant to section 660.017 and chapter 536.

208.182. 1. [The division of family services shall establish pilot projects in St. Louis  
2 City and in any county with a population of six hundred thousand or more, which shall provide

3 for a system of electronic transfer of benefits to public assistance recipients. Such system shall  
4 allow recipients to obtain cash from automated teller machines or point of sale terminals. If less  
5 than the total amount of benefits is withdrawn, the recipient shall be given a receipt showing the  
6 current status of his account.] **The department of social services shall seek a waiver from the  
7 federal government to mandate the use of photo identification for continued eligibility in  
8 the food stamp program administered in Missouri. Upon one year after approval by the  
9 federal government, the department shall issue a photo identification card to each eligible  
10 household member who is sixteen years of age or older. The household member, or the  
11 household's authorized representative, shall present the photo identification card at  
12 issuance points, retail food stores, or meal services when exchanging benefits for eligible  
13 food. Any retailer participating in the food stamp program shall be required to verify that  
14 the photo identification on the card presented matches the identity of the person presenting  
15 the card.**

16 2. The disclosure of any information provided to a financial institution, business or  
17 vendor by the [division of family services] **department** pursuant to this section is prohibited.  
18 Such financial institution, business or vendor may not use or sell such information and may not  
19 divulge the information without a court order. Violation of this subsection is a class A  
20 misdemeanor.

21 3. [Subject to appropriations and subject to receipt of waivers from the federal  
22 government to prevent the loss of any federal funds, the department of social services shall  
23 require the use of photographic identification on electronic benefit transfer cards issued to  
24 recipients in this system. Such photographic identification electronic benefit transfer card shall  
25 be in a form approved by the department of social services.

26 4.] The [division of family services] **department** shall promulgate rules and regulations  
27 necessary to implement the provisions of this section pursuant to section 660.017 and chapter  
28 536. **The rules shall ensure compliance with federal law, taking into account individuals  
29 and households with special needs as well as ensuring that all appropriate household  
30 members or authorized representatives are able to access benefits from the account as  
31 necessary.**

32 [5.] 4. The delivery of electronic benefits and the electronic eligibility verification,  
33 including, but not limited to, [aid to families with dependent children (AFDC)] **temporary  
34 assistance for needy families (TANF)**, women, infants and children (WIC), early periodic  
35 screening diagnosis and treatment (EPSDT), food stamps, supplemental security income (SSI),  
36 including Medicaid, child support, and other programs, shall reside in one card that may be  
37 enabled by function from time to time in a convenient manner.

**208.249. 1. As used in this section, the following terms mean:**

2 (1) “Department”, the department of social services;

3 (2) “Fraud”, a known false representation, including the concealment of a material  
4 fact, upon which the recipient claims eligibility for public assistance benefits;

5 (3) “Public assistance benefits”, temporary assistance for needy families benefits,  
6 food stamps, medical assistance, or other similar assistance administered by the  
7 department of social services or other state department;

8 (4) “Recipient”, a person who is eligible to receive public assistance benefits.

9 2. Any person who knowingly and intentionally commits fraud in obtaining or  
10 attempting to obtain public assistance benefits shall lose eligibility for public assistance  
11 benefits permanently.

12 3. Any persons who, based upon their personal knowledge, have reasonable cause  
13 to believe an act of public assistance benefits fraud is being committed shall report such  
14 act to the department. When a report of suspected public assistance benefits fraud is  
15 received by the department, the department shall investigate such report. An investigation  
16 of public assistance benefits fraud shall be initiated by the department within fifteen days  
17 of receipt of the report. Absent good cause, any investigation shall be concluded within  
18 sixty days of receipt of the report. The burden of conducting the investigation rests with  
19 the fraud investigator or fraud unit and not the recipient’s caseworker. Failure to comply  
20 with the provisions of this section shall be grounds for termination of employment. The  
21 investigation must include:

22 (1) A request for the employment records and pay stubs of the recipient covering  
23 the previous six months;

24 (2) Verification of all individuals living in the household of the recipient;

25 (3) A copy of any rental agreement for the residence or a copy of the deed of the  
26 home;

27 (4) A copy of any court order regarding custody of any minor children living in the  
28 home; and

29 (5) The state and federal tax returns of the recipient for the previous two years.

Section 1. Notwithstanding any provision of law to the contrary, the department  
2 shall establish and implement a welfare-to-work program that requires all recipients of  
3 temporary assistance for needy families benefits to make at least twenty job contacts per  
4 week. The department shall allow recipients to work as unpaid interns for a governmental  
5 entity and shall only require those working as interns to make at least ten job contacts per  
6 week. Any county, city or other political subdivision shall be allowed to submit to the  
7 department available intern positions in which temporary assistance recipients may be  
8 placed. The director of the department of social services shall apply for all waivers of

9 requirements under federal law necessary to implement the provisions of this section with  
10 full federal participation. The provisions of this section shall be implemented, subject to  
11 appropriation, as waivers necessary to ensure continued federal participation are received.

Section 2. All recipients of temporary assistance for needy families, food stamps,  
2 child care assistance, supplemental nutrition assistance, or any other similar governmental  
3 assistance program who are eighteen years of age or older shall be required to possess a  
4 high school diploma or graduate equivalency diploma. The director of the department of  
5 social services shall apply for all waivers of requirements under federal law necessary to  
6 implement the provisions of this section with full federal participation. The provisions of  
7 this section shall be implemented, subject to appropriation, as waivers necessary to ensure  
8 continued federal participation are received.

Section 3. Notwithstanding any provision of law to the contrary, the department  
2 shall establish and implement policies and procedures that will allow recipients of the  
3 supplemental nutrition assistance program to only purchase food items that are included  
4 on the approved food list for the women, infants and children program with their  
5 electronic benefit transfer cards.

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