

SENATE SUBSTITUTE
FOR
HOUSE BILL NO. 2290
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:

1 Section A. Section 208.010, RSMo, is repealed and two new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

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

1 shall be considered in determining the eligibility of either or
2 both. "Living together" for the purpose of this chapter is
3 defined as including a husband and wife separated for the purpose
4 of obtaining medical care or nursing home care, except that the
5 income of a husband or wife separated for such purpose shall be
6 considered in determining the eligibility of his or her spouse,
7 only to the extent that such income exceeds the amount necessary
8 to meet the needs (as defined by rule or regulation of the
9 division) of such husband or wife living separately. In
10 determining the need of a claimant in federally aided programs
11 there shall be disregarded such amounts per month of earned
12 income in making such determination as shall be required for
13 federal participation by the provisions of the federal Social
14 Security Act (42 U.S.C.A. 301 et seq.), or any amendments
15 thereto. When federal law or regulations require the exemption
16 of other income or resources, the division of family services may
17 provide by rule or regulation the amount of income or resources
18 to be disregarded.

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

20 (1) Has or whose spouse with whom he or she is living has,
21 prior to July 1, 1989, given away or sold a resource within the
22 time and in the manner specified in this subdivision. In
23 determining the resources of an individual, unless prohibited by
24 federal statutes or regulations, there shall be included (but
25 subject to the exclusions pursuant to subdivisions (4) and (5) of
26 this subsection, and subsection 5 of this section) any resource
27 or interest therein owned by such individual or spouse within the
28 twenty-four months preceding the initial investigation, or at any

1 time during which benefits are being drawn, if such individual or
2 spouse gave away or sold such resource or interest within such
3 period of time at less than fair market value of such resource or
4 interest for the purpose of establishing eligibility for
5 benefits, including but not limited to benefits based on
6 December, 1973, eligibility requirements, as follows:

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

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

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

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

25 (2) The provisions of subdivision (1) of this subsection
26 shall not apply to a transfer, other than a transfer to
27 claimant's spouse, made prior to March 26, 1981, when the
28 claimant furnishes convincing evidence that the uncompensated

1 value of the disposed of resource or any part thereof is no
2 longer possessed or owned by the person to whom the resource was
3 transferred;

4 (3) Has received, or whose spouse with whom he or she is
5 living has received, benefits to which he or she was not entitled
6 through misrepresentation or nondisclosure of material facts or
7 failure to report any change in status or correct information
8 with respect to property or income as required by section
9 208.210. A claimant ineligible pursuant to this subsection shall
10 be ineligible for such period of time from the date of discovery
11 as the division of family services may deem proper; or in the
12 case of overpayment of benefits, future benefits may be
13 decreased, suspended or entirely withdrawn for such period of
14 time as the division may deem proper;

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

22 (5) Prior to October 1, 1989, owns or possesses property of
23 any kind or character, excluding amounts placed in an irrevocable
24 prearranged funeral or burial contract [pursuant to subsection 2
25 of section 436.035, RSMo, and subdivision (5) of subsection 1 of
26 section 436.053, RSMO] under chapter 436, or has an interest in
27 property, of which he or she is the record or beneficial owner,
28 the value of such property, as determined by the division of

1 family services, less encumbrances of record, exceeds twenty-nine
2 thousand dollars, or if married and actually living together with
3 husband or wife, if the value of his or her property, or the
4 value of his or her interest in property, together with that of
5 such husband and wife, exceeds such amount;

6 (6) In the case of temporary assistance for needy families,
7 if the parent, stepparent, and child or children in the home owns
8 or possesses property of any kind or character, or has an
9 interest in property for which he or she is a record or
10 beneficial owner, the value of such property, as determined by
11 the division of family services and as allowed by federal law or
12 regulation, less encumbrances of record, exceeds one thousand
13 dollars, excluding the home occupied by the claimant, amounts
14 placed in an irrevocable prearranged funeral or burial contract
15 [pursuant to subsection 2 of section 436.035, RSMo, and
16 subdivision (5) of subsection 1 of section 436.053, RSMO] under
17 chapter 436, one automobile which shall not exceed a value set
18 forth by federal law or regulation and for a period not to exceed
19 six months, such other real property which the family is making a
20 good-faith effort to sell, if the family agrees in writing with
21 the division of family services to sell such property and from
22 the net proceeds of the sale repay the amount of assistance
23 received during such period. If the property has not been sold
24 within six months, or if eligibility terminates for any other
25 reason, the entire amount of assistance paid during such period
26 shall be a debt due the state;

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

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

7 4. In determining eligibility and the amount of benefits to
8 be granted pursuant to federally aided programs, the value of
9 burial lots or any amounts placed in an irrevocable prearranged
10 funeral or burial contract [pursuant to subsection 2 of section
11 436.035, RSMo, and subdivision (5) of subsection 1 of section
12 436.053, RSMO,] under chapter 436 shall not be taken into account
13 or considered an asset of the burial lot owner or the beneficiary
14 of an irrevocable prearranged funeral or funeral contract. For
15 purposes of this section, "burial lots" means any burial space as
16 defined in section 214.270[, RSMo,] and any memorial, monument,
17 marker, tombstone or letter marking a burial space. If the
18 beneficiary, as defined in chapter 436, [RSMo,] of an irrevocable
19 prearranged funeral or burial contract receives any public
20 assistance benefits pursuant to this chapter and if the purchaser
21 of such contract or his or her successors in interest cancel or
22 amend the contract so that any person will be entitled to a
23 refund, such refund shall be paid to the state of Missouri up to
24 the amount of public assistance benefits provided pursuant to
25 this chapter with any remainder to be paid to those persons
26 designated in chapter 436[, RSMO].

27 5. In determining the total property owned pursuant to
28 subdivision (5) of subsection 2 of this section, or resources, of

1 any person claiming or for whom public assistance is claimed,
2 there shall be disregarded any life insurance policy, or
3 prearranged funeral or burial contract, or any two or more
4 policies or contracts, or any combination of policies and
5 contracts, which provides for the payment of one thousand five
6 hundred dollars or less upon the death of any of the following:

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

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

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

27 (1) That at the beginning of a period of continuous
28 institutionalization that is expected to last for thirty days or

1 more, the institutionalized spouse, or the community spouse, may
2 request an assessment by the division of family services of total
3 countable resources owned by either or both spouses;

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

7 (3) That upon an initial eligibility determination, if the
8 community spouse's share does not equal at least twelve thousand
9 dollars, the institutionalized spouse may transfer to the
10 community spouse a resource allowance to increase the community
11 spouse's share to twelve thousand dollars;

12 (4) That in the determination of initial eligibility of the
13 institutionalized spouse, no resources attributed to the
14 community spouse shall be used in determining the eligibility of
15 the institutionalized spouse, except to the extent that the
16 resources attributed to the community spouse do exceed the
17 community spouse's resource allowance as defined in 42 U.S.C.
18 Section 1396r-5;

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

24 (6) That beginning the month after initial eligibility for
25 the institutionalized spouse is determined, the resources of the
26 community spouse shall not be considered available to the
27 institutionalized spouse during that continuous period of
28 institutionalization.

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

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

6 9. Beginning October 1, 1989, when determining eligibility
7 for assistance pursuant to this chapter there shall be
8 disregarded unless otherwise provided by federal or state
9 statutes, the home of the applicant or recipient when the home is
10 providing shelter to the applicant or recipient, or his or her
11 spouse or dependent child. The division of family services shall
12 establish by rule or regulation in conformance with applicable
13 federal statutes and regulations a definition of the home and
14 when the home shall be considered a resource that shall be
15 considered in determining eligibility.

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

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

26 12. An institutionalized spouse applying for Medicaid and
27 having a spouse living in the community shall be required, to the
28 maximum extent permitted by law, to divert income to such

1 community spouse to raise the community spouse's income to the
2 level of the minimum monthly needs allowance, as described in 42
3 U.S.C. Section 1396r-5. Such diversion of income shall occur
4 before the community spouse is allowed to retain assets in excess
5 of the community spouse protected amount described in 42 U.S.C.
6 Section 1396r-5.

7 208.046. 1. The children's division shall promulgate rules
8 to become effective no later than July 1, 2011, to modify the
9 income eligibility criteria for any person receiving state-funded
10 child care assistance under this chapter, either through vouchers
11 or direct reimbursement to child care providers, as follows:

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

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

26 (3) The maximum payment by the division shall be the
27 applicable rate minus the applicable fee.

28 2. For purposes of this section, "annual appropriation

1 level" shall mean the maximum income level to be eligible for a
2 full child care benefit as determined through the annual
3 appropriations process.

4 3. Any rule or portion of a rule, as that term is defined
5 in section 536.010, that is created under the authority delegated
6 in this section shall become effective only if it complies with
7 and is subject to all of the provisions of chapter 536, and, if
8 applicable, section 536.028. This section and chapter 536, are
9 nonseverable and if any of the powers vested with the general
10 assembly pursuant to chapter 536, to review, to delay the
11 effective date, or to disapprove and annul a rule are
12 subsequently held unconstitutional, then the grant of rulemaking
13 authority and any rule proposed or adopted after August 28, 2010,
14 shall be invalid and void.