

SECOND REGULAR SESSION

# HOUSE BILL NO. 1783

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BARNES.

5203H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 50.1175 and 70.695, RSMo, and to enact in lieu thereof three new sections relating to rights to retirement benefits.

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

Section A. Sections 50.1175 and 70.695, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 50.1175, 70.695, and 70.696, to read as follows:

50.1175. **1.** The right of a person to an annuity, pension benefit, funds, retirement allowance, right to a return on accumulated contributions, allowance options, property, or right created by or accrued, accruing or paid to any person pursuant to sections 50.1000 to 50.1300, including any defined contribution account created pursuant to sections 50.1210 to 50.1260 and any deferred compensation plan created pursuant to section 50.1300 shall not be subject to execution, garnishment, attachment, writ of sequestration, the operation of bankruptcy or insolvency laws, [a qualified domestic relations order as defined in 26 U.S.C. Section 414(p) or 29 U.S.C. Section 1056(d), or any other domestic relations order] or to any other claim or process of law whatsoever except for the collection of child support and maintenance after a member begins receiving payments **or, beginning January 1, 2017, a domestic relations order under subsection 2 of this section**, and shall be unassignable except as specifically provided in sections 50.1000 to 50.1300.

**2. A court of competent jurisdiction may issue a domestic relations order dividing benefits created under sections 50.1000 to 50.1300 between the parties to a dissolution of marriage action if, and only if:**

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.

16           **(1) The court finds that requiring one of the parties to the marital dissolution to**  
17 **make an equalization payment to reflect the value of the benefits created under sections**  
18 **50.1000 to 50.1300 would work an undue hardship on such party; and**

19           **(2) Such order complies with rules adopted by the board relating to the division of**  
20 **benefits pursuant to a marital dissolution.**

21           **3. The board shall adopt the rules described in subdivision (2) of subsection 2 of**  
22 **this section no later than December 31, 2016.**

70.695. The right of a person to an allowance, to the return of accumulated contributions,  
2 the allowance itself, any allowance option, and any other right accrued or accruing under the  
3 provisions of sections 70.600 to 70.755, and all moneys belonging to the system shall not be  
4 subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws,  
5 or to any other process of law whatsoever, and shall be unassignable, except as is specifically  
6 provided in sections 70.600 to 70.755; except that:

7           (1) Any political subdivision shall have the right of setoff for any claim arising from  
8 embezzlement by or fraud of a member, retirant, or beneficiary;

9           (2) Such rights shall not be exempt from attachment or execution in a proceeding  
10 instituted for the support and maintenance of children. In all such actions described in this  
11 subdivision, the system shall be entitled to collect a fee of up to twenty dollars chargeable against  
12 the person for each delinquent attachment, execution, sequestration or garnishment payment;  
13 [and]

14           (3) A retirant may authorize the board to have deducted from his or her allowance the  
15 payments required of him or her to provide for health insurance or long-term care insurance  
16 premiums in accordance with Section 402 of the Internal Revenue Code of 1986, as amended;  
17 **and**

18           **(4) A division of benefits order in accordance with section 70.696 shall be**  
19 **recognized.**

**70.696. 1. Any pension, annuity, life allowance, benefit, or right provided under**  
2 **this chapter is marital property and after January 1, 2017, a court of competent**  
3 **jurisdiction may divide the pension, annuity, life allowance, benefit, or right provided**  
4 **under this chapter between the parties to any action for dissolution of marriage. A division**  
5 **of benefits order under this section:**

6           **(1) Shall not require the system to provide any form or type of allowance or**  
7 **payment option not selected by the member and not normally made available by the**  
8 **system;**

9           (2) Shall not require the system to commence payments until the member submits  
10 a valid application for an allowance and the allowance becomes payable in accordance with  
11 the application;

12           (3) Shall identify the monthly amount to be paid to the alternate payee, which shall  
13 be expressed as a percentage; and which shall be based on the member's vested life  
14 allowance on the date of the dissolution of marriage or an earlier date as specified in the  
15 order and shall be paid solely as a monthly life allowance, or which amount shall be  
16 adjusted proportionately if the member's life allowance is reduced due to early retirement  
17 under section 70.670, or under an allowance option in which the member named the  
18 alternate payee as an irrevocable beneficiary prior to the dissolution of marriage, or under  
19 section 70.660, and the percentage established shall be applied to the pro rata portion of  
20 any lump sum distribution under sections 70.676 accrued during the time while the  
21 member and alternate payee were married;

22           (4) Shall not require the payment of an allowance amount to the member and  
23 alternate payee which in total exceeds the amount which the member would have received  
24 without regard to the order;

25           (5) Shall provide that any benefit formula increases, additional years of credited  
26 service, increased average compensation, or other type of increases accrued after the date  
27 of the dissolution of marriage shall accrue solely to the benefit of the member; except that,  
28 on or after January 1, 2017, any annual benefit increase under subsections 7 to 10 of  
29 section 70.655 shall not be considered to be an increase accrued after the date of  
30 termination of marriage and shall be part of the monthly amount subject to division  
31 pursuant to any order issued after January 1, 2017;

32           (6) Shall terminate upon the death of either the member or the alternate payee,  
33 whichever occurs first;

34           (7) Shall not create an interest which is assignable or subject to any legal process;

35           (8) Shall include the name, address, date of birth, and any other identifying  
36 information of both the member and the alternate payee as may be required by the system  
37 and the identity of the retirement system to which it applies;

38           (9) Shall be consistent with any other division of benefits orders that are applicable  
39 to the same member;

40           (10) Shall be payable the first calendar month after receipt of a valid division of  
41 benefits order from a court of competent jurisdiction if such order is received prior to the  
42 fifteenth of the preceding month; and

43           (11) Shall not require the retirement system to continue payments to the alternate  
44 payee if the member's retirement benefit is suspended as provided by this chapter or is

45 **forfeited pursuant to applicable law, but such payments shall resume when the retiree**  
46 **begins to receive retirement benefits in the future.**

47 **2. A system established by this chapter shall provide the court having jurisdiction**  
48 **of a dissolution of marriage proceeding or the parties to the proceeding with information**  
49 **necessary to issue a division of benefits order concerning a member of the system upon**  
50 **written request from the court, the member, or the member's spouse which cites this**  
51 **section and identifies the case number and parties.**

52 **3. Any retirement plan otherwise exempt from a qualified domestic relations order**  
53 **under federal law and not included in the provisions of this section shall, beginning**  
54 **January 1, 2017, recognize qualified domestic relations orders issued by a court of**  
55 **competent jurisdiction in the state in the same manner as nonexempt retirement plans.**

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