

FIRST REGULAR SESSION

# SENATE BILL NO. 264

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR STEELMAN.

Read 1st time January 10, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0983S.021

## AN ACT

To repeal sections 104.312 and 104.1051, RSMo 2000, relating to judicial division of benefits, and to enact in lieu thereof two new sections relating to the same subject.

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

Section A. Sections 104.312 and 104.1051, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 104.312 and 104.1051, to read as follows:

104.312. 1. The provisions of subsection 2 of section 104.250, subsection 2 of section 104.540, subsection 2 of section 287.820, RSMo, and section 476.688, RSMo, to the contrary notwithstanding, any pension, annuity, benefit, right, or retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476, RSMo, is marital property and after August 28, 1994, a court of competent jurisdiction may divide the pension, annuity, benefits, rights, and retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476, RSMo, between the parties to any action for dissolution of marriage. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity not selected by the member and not normally made available by that system;

(2) Shall not require the applicable retirement system to commence payments until the member submits a valid application for an annuity and the annuity becomes payable in accordance with the application;

(3) Shall identify the monthly amount to be paid to the alternate payee, which shall not exceed fifty percent of the amount of the member's annuity accrued during the time while the member and alternate payee were married and based on the member's vested annuity on the date of the dissolution of marriage **or such other date as may be agreed to by the parties and**

**approved by the court**, and the amount shall be adjusted proportionately if the member's annuity is reduced due to early retirement;

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

(5) Shall provide that any benefit formula increases, additional years of service, increased average compensation or other type of increases accrued after the date of the dissolution of marriage shall accrue solely to the benefit of the member, except that annual benefit increases shall be applied to the amount received by both the member and the alternate payee;

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

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

(8) Shall include the name, address and Social Security number of both the member and the alternate payee, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

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

3. A system established by this chapter shall have the discretionary authority to reject a division of benefits order for the following reasons:

(1) The order does not clearly state the rights of the member and the alternate payee;

(2) The order is inconsistent with any law governing the retirement system.

104.1051. 1. Any annuity provided pursuant to the year 2000 plan is marital property and a court of competent jurisdiction may divide such annuity between the parties to any action for dissolution of marriage if at the time of the dissolution the member has at least five years of credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity not selected by the member;

(2) Shall not require the applicable retirement system to commence payments until the member's annuity starting date;

(3) Shall identify a percentage of the monthly amount to be paid to the former spouse, which shall not exceed fifty percent of the amount of the member's annuity accrued during the period of the marriage of the member and former spouse which amount shall be adjusted proportionately upon the annuity starting date, **or such other date as may be agreed to by the**

**parties and approved by the court**, if the member's annuity is reduced due to the receipt of an early retirement annuity;

(4) Shall not require the payment of an annuity amount to the member and former spouse which in total exceeds the amount which the member would have received without regard to the order;

(5) Shall provide that any annuity increases, temporary annuity received pursuant to subsection 4 of section 104.1024, additional years of credited service, increased final average pay or other type of increases accrued after the date of the dissolution of marriage shall accrue solely to the benefit of the member, except that any cost-of-living adjustment (COLA) due after the annuity starting date shall be applied to the amounts received by both the member and the former spouse after the date of dissolution;

(6) Shall terminate upon the death of either the member or the former spouse, whichever occurs first;

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

(8) Shall include the name, address, date of birth, and Social Security number of both the member and the former spouse, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system shall provide the court having jurisdiction of a dissolution of a marriage proceeding or the parties to the proceeding with information necessary to issue a division of benefits order concerning a member of the system, upon written request from either the court, the member, or the member's spouse, citing this section and identifying the case number and parties.

3. A system shall have the discretionary authority to reject a division of benefits order for the following reasons:

(1) The order does not clearly state the rights of the member and the former spouse;

(2) The order is inconsistent with any law governing the retirement system.