

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1217

97TH GENERAL ASSEMBLY

4869H.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 434, RSMo, by adding thereto five new sections relating to the unlawful transfer or assignment of pension benefits.

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

Section A. Chapter 434, RSMo, is amended by adding thereto five new sections, to be
2 known as sections 434.300, 434.301, 434.302, 434.303, and 434.304 to read as follows:

434.300. 1. For purposes of sections 434.300 to 434.303, the following terms mean:

2 **(1) "Benefit recipient", the person who is the participant or authorized beneficiary**
3 **under the plan entitled to receive a plan benefit;**

4 **(2) "Plan", any retirement system established by the state of Missouri, any political**
5 **subdivision, or instrumentality of the state for the purpose of providing plan benefits for**
6 **elected or appointed public officials or employees of the state of Missouri, any political**
7 **subdivision, or instrumentality of the state;**

8 **(3) "Plan benefit", the benefit amount payable from a plan, and includes any**
9 **annuity, supplemental payment, or death benefit under the plan together with any**
10 **supplemental payments from public funds to the benefit recipient;**

11 **(4) "Pension assignee", an individual or entity that has been assigned a plan benefit**
12 **or portions of a plan benefit by the benefit recipient or that otherwise claims an interest**
13 **in, or control over, a plan benefit or account to which a plan benefit has been deposited.**

434.301. 1. The right of any person to a plan benefit shall not be transferable or
2 **assignable, at law or in equity, and none of the moneys paid or payable or rights existing**
3 **under a plan shall be subject to execution, levy, attachment, garnishment, or other legal**
4 **process. This section shall not prohibit the division or assignability of a plan benefit that**

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.

5 is expressly authorized by law that establishes the plan or that is specifically applicable to
6 the plan.

7 2. A pension assignee shall not use any device, scheme, transfer, or other artifice
8 to evade the applicability and prohibition of this section, including the deposit of such plan
9 benefits into a joint account with a pension assignee or the authorization to a pension
10 assignee under a power of attorney or other instrument or document to access an account
11 or otherwise obtain funds from an account to which plan benefits have been deposited.

 434.302. 1. Any contract or agreement made in violation of section 434.301 is void.
2 All sums paid to or collected by a pension assignee in violation of section 434.301 shall be
3 returned by the pension assignee to the benefit recipient or his or her heirs or beneficiaries
4 as restitution.

5 2. Any benefit recipient, his or her guardian or conservator, or heir or beneficiary
6 may bring an action to enforce the restitution authorized under this section.

7 3. Notwithstanding any other provision of law to the contrary, any actions brought
8 under this section must be commenced within five years after any individual or entity
9 engages in any act or practice in violation of 434.301.

 434.303. 1. Whenever it appears that any individual or entity is engaged or is about
2 to engage in any act or practice which is in violation of section 434.301, the attorney
3 general may bring an action in the circuit court having venue to enjoin such act or practice,
4 and upon a proper showing, a temporary restraining order or a preliminary or permanent
5 injunction shall be granted without bond.

6 2. The attorney general may seek the recovery authorized under section 434.302 on
7 behalf of the benefit recipient or his or her heirs or beneficiaries and the state, and may
8 exercise the investigative and enforcement powers authorized under chapter 407, RSMo,
9 to the attorney general and the attorney general may have such recovery of costs as
10 authorized under chapter 407, RSMo.

 434.304. Nothing in sections 434.301 to 434.303 shall prohibit any action permitted
2 under chapter 409.

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