

Sec. 10. Prohibition on Assignment and Alienation; Exceptions for Court Orders Pertaining to Divorce; Right of Setoff for Embezzlement or Fraud; Member Transfers to Repay Refunded Contributions or Purchase Service.

- (1) The right of an individual to a retirement allowance, accumulated contributions, the retirement allowance itself, accumulated account balance, or any other right accrued or accruing to an individual under this Plan, and any money belonging to the Retirement System is not subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever and is unassignable, except as is otherwise specifically provided in the Public Employee Retirement Benefit Protection Act, 2002 PA 100, MCL 38.1681 to 38.1689, or this Plan.
- (2) The right of an individual to a retirement allowance, accumulated contributions, the retirement allowance itself, accumulated account balance, or any other benefit under this Plan is subject to award by a court pursuant to section 18 of chapter 84 of the revised statutes of 1846, MCL 552.18, and to any other order of a court pertaining to alimony or child support. The right of an individual to a retirement allowance, to the return of accumulated contributions, the retirement allowance itself, or any other benefit under this Plan is subject to an eligible domestic relations order under the Eligible Domestic Relations Order Act, 1991 PA 46, MCL 38.1701 to 38.1711. However, this subsection does not permit or require a benefit to be paid or to be provided that is not otherwise available under the terms of this Plan.
- (3) If an award or order described in subsection (2) requires the System to withhold payment of a pension, deferred pension, accumulated contributions, or other benefit from the person to whom it is due or requires the System to make payment or requires the person to request that the System make payment of a pension, deferred pension, accumulated contributions, or other benefit, for the purpose of meeting the person's obligations to a spouse, former spouse or child, as provided in subsection (2), the withholding or payment provisions of the award or order shall be effective only against such amounts as they become payable to the person receiving a retirement allowance unless otherwise provided in an eligible domestic relations order under the Eligible Domestic Relations Order Act. The limitations contained in this subsection do not apply to the accumulated contributions of a person who terminates employment before acquiring a vested member status.
- (4) The System shall have the right of setoff to recover overpayments made by the System and to satisfy any claim arising from embezzlement or fraud by a member, retiree, or beneficiary.
- (5) A transfer of money and assets to another retirement system authorized by an affirmative vote by a majority of the members on the municipality's governing body is not a violation of this section.

- (6) A transfer by a member of his or her account balance for the purpose of repaying accumulated contributions previously paid to the member under Plan section 16(4)(b), or purchasing qualifying governmental or generic credited service under Plan sections 18 or 19, respectively, is governed exclusively by this subsection (6).
- (a) Subject to any limitations or conditions imposed by the IRC or Internal Revenue Service regulations, a member may elect to have any portion of his or her account balance transferred to the MERS Defined Benefit Plan from any MERS or non-MERS plan maintained by the member's employer that is a (i) tax-qualified defined contribution plan or (ii) governmental 457(b) plan. The transfer must be permitted under the plan from which the transfer will originate and may be made from that plan before the member has had a severance from employment.
- (b) The transfer is for the repayment of accumulated contributions previously paid to the member pursuant to Plan section 16(4)(b), or for the purchase of permissive service credit (as defined in IRC 415(n)(3)(A)), pursuant to Plan section 6 or 7. The transfer amount shall not exceed the amount required by the Retirement System in order to repay contributions or for service credit to be granted.