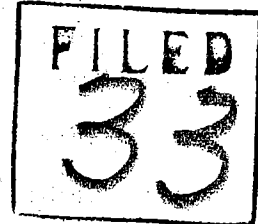


WORKMEN'S COMPENSATION:
PROCEDURAL LAW:
STATEMENTS:

Section 287.215, V.A.M.S., June Pamphlet 1959, passed by the 70th General Assembly of the State of Missouri, is procedural law, and may apply to the procedures in causes of action which arose prior to the effective date of this section.

September 16, 1959



Honorable Spencer H. Givens
Director, Division of
Workmen's Compensation
State Office Building
Jefferson City, Missouri

Dear Mr. Givens:

This is in response to your letter of September 2, 1959, which we quote:

"Will you please advise us in an opinion on the following:

"Included in Senate Bill No. 167, passed by the Seventieth General Assembly and approved by the Governor, is Section 287.215, a new provision of the law that became effective on August 29, 1959.

"Will you please advise us whether or not the provisions of this section are procedural or substantive, that is to say, will these new provisions apply to accidental injuries occurring before August 29, 1959, or will they apply only to those occurring after August 28, 1959?"

Section 287.215, V.A.M.S., June Pamphlet 1959, passed by the 70th General Assembly of the State of Missouri:

"No statement in writing made or given by an injured employee, whether signed or unsigned, or whether taken and transcribed by a stenographer, signed or unsigned by the injured employee, shall be admissible in evidence, used or referred to in any

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manner at any hearing or action to recover benefits under this law unless a copy thereof shall be given or furnished the employee or his dependents in case of death, or their attorney, within seven days after written request for same by the injured employee, his dependents in case of death, or by their attorney."

In the case of *Ambrose v. State Department of Public Health and Welfare*, 319 S.W. 2d 271 (December, 1958), the Kansas City Court of Appeals stated, at page 274:

"'Substantive law' is a term that frequently has been defined and contrasted with procedural or adjective law. An accepted definition is that substantive law is law which creates, defines and regulates rights as opposed to adjective law which pertains to and prescribes the practice, method, procedure or legal machinery by which substantive law is enforced or made effective. See *Barker v. St. Louis County*, 340 Mo. 986, 104 S.W. 2d 371, 378; *Maurizi v. Western Coal and Mining Co.*, 321 Mo. 378, 11 S.W. 2d 268, 272."

Division No. 1 of the Supreme Court of Missouri, 1937, in the case of *Barker v. St. Louis County*, 104 S.W. 2d 371, stated, at page 377:

"Adjective or procedural law is a 'method provided by law for aiding and protecting defined legal rights, procedure, the law which prescribes the method of enforcing rights or obtaining redress for their invasion.' 1 C.J., p. 1197. 'Substantive law is that part of the law, which creates, defines and regulates rights, as opposed to adjective or remedial law, which prescribes the method of enforcing rights or obtaining redress for their invasion.' 36 C.J. p. 963; *Maurizi v. Western Coal & Mining Co.*, 321 Mo. 378, 11 S.W. (2d) 268, loc. cit. 272. The distinction between substantive law and procedural law is that 'substantive law relates to rights and duties which give rise to a cause of action,' while procedural law 'is the machinery for carrying

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on the suit.' Jones v. Erie R. Co., 106
Ohio St. 408, 140 N.E. 366, 368."

Considering the definition as set forth in the preceding two cases, it is the opinion of this office that Section 287.215, supra, is procedural law. It is to be noted from this section that the machinery for carrying on the suit is involved. It provides that a statement shall not be admissible unless a copy thereof has been submitted to the employee or his attorney within seven days of a request in writing therefor. We believe that this is a "method provided by law for aiding and protecting defined legal rights, procedure." There would appear to be no basis for a claim or right set forth in Section 287.215, it being merely a procedural law.

As it has been stated in 82 C.J.S., Section 422, unless an intent to the contrary is expressed (none being shown in Section 287.215, supra), a statute providing or merely affecting the remedy may apply to, and operate on, causes of action which had accrued and were existing at the time of the enactment of the statute, as well as causes of action thereafter to accrue, and to all actions, whether commenced before or after its enactment; and also unless an intent to the contrary is expressed, such enactments as do not affect the nature of the remedy, but relate solely to incidents of procedure, are applicable to all proceedings taken in pending actions from the time they take effect.

We think this adequately sets forth the law as it is in Missouri, and upon this basis it would be our opinion that Section 287.215, supra, may apply to the procedures in causes of action which have arisen prior to the effective date of this section, but its application will not apply to those cases in which a final decision has been rendered prior to August 29, 1959.

CONCLUSION

It is the opinion of this office that Section 287.215, V.A.M.S., June Pamphlet 1959, passed by the 70th General Assembly of the State of Missouri, is procedural law, and may apply to the procedures in causes of action which arose prior to the effective date of this section.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, James B. Slusher.

Yours very truly,

JOHN M. DALTON
Attorney General