

STATE OF MICHIGAN



DEPARTMENT OF MANAGEMENT AND BUDGET  
OFFICE OF RETIREMENT SERVICES

# Domestic Relations Order for Retirees

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# Domestic Relations Order for Retirees

A Domestic Relations Order (DRO) filed with the retirement system typically provides for a division of a pension as a marital asset. The requirements of a DRO under Michigan law, including the retirement system's statute, must be met before a DRO can be administered by the retirement system. The Eligible Domestic Relations Order (EDRO) Act (1991 PA 46), applies to orders filed with the retirement system *before* the retirement effective date. In cases where the divorce occurs *after* the retirement effective date, a DRO is necessary to divide a pension or to remove the survivor option if one was elected at the time of retirement.

## Terms of a Domestic Relations Order

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### *Definitions*

*Retirant* – a member who has retired with a pension due and payable from the retirement system.

*Former spouse* – a spouse who is granted a divorce from the retirant.

### *Public Acts*

The Office of Retirement Services (ORS) administers the retirement systems listed below, which are controlled by the respective public act.

Michigan Public School Employees Retirement System	1980 PA 300, MCL 38.1301 <i>et seq.</i>
State Employees' Retirement System	1943 PA 240, MCL 38.1 <i>et seq.</i>
Michigan State Police Retirement System	1986 PA 182, MCL 38.1601 <i>et seq.</i>
Judges Retirement System	1992 PA 234, MCL 38.2101 <i>et seq.</i>

### *A Domestic Relations Order must include the following (please see sample):*

1. Retirant's full name, date of birth, last known address, social security number, effective date of retirement, and option chosen at retirement.
2. Former spouse's full name, date of birth, last known address, and social security number.
3. One of the two alternatives explained in the sample DRO that assigns a portion of the retirant's pension. Slight variation regarding post-retirement increase distribution is permitted. DROs that do not follow the sample **will be rejected** by ORS.
4. A DRO must be entered by the court, approved by ORS, and a true or certified copy filed with ORS before the retirant's death.

### *Domestic Relations Order options:*

The DRO may do one, or both, of the following:

1. The DRO may assign a percentage or a specific dollar amount of the retirant's pension to his or her former spouse. Payments to the former spouse will be effective the first day of the month following ORS' receipt of an acceptable DRO.
2. If, at the time of retirement, the retirant elected to receive his or her retirement allowance in the form of a survivor option and designated the former spouse as beneficiary, the DRO may void the survivor option (50%, 75%, or 100%). If the survivor option is voided, the retirant's retirement allowance will revert to the straight life option. *Note:* Although the retirant may be entitled to receive his or her retirement allowance in the form of a straight life benefit, a portion of that straight life benefit may still be assigned to the former spouse under the DRO.

### ***Voiding a survivor option chosen at retirement***

If a survivor option naming the former spouse was chosen at retirement, it may be voided by filing one of the following documents with ORS:

1. A true or certified copy of a Judgment of Divorce, which includes the language below.

“The plan administrator shall, upon receipt of this order, negate and declare null and void, the retirant’s election of the \_\_\_\_\_ [select 50%, 75%, or 100%] survivor option previously filed with the plan administrator, thereby relinquishing all of the former spouse’s rights to any pension or benefit after the death of the retirant. Beginning the first month following the presentation of a certified copy of this order to the plan administrator, the retirant's retirement allowance shall revert to a straight life allowance.”

2. An acceptable DRO declaring the selected survivor option VOID. (See sample DRO.)

Upon ORS’ receipt of a true or certified copy of a Judgment of Divorce or an acceptable DRO, the retirant’s pension will be adjusted to a straight life allowance. The adjusted straight life allowance will be effective the first of the month after ORS’ receipt of the acceptable court order.

### ***Post-retirement payments/increases granted to a former spouse***

The former spouse may receive a portion of the retirant’s pension and post-retirement guaranteed benefit increases if specifically stated in the DRO. If the former spouse is awarded a specific dollar amount, the guaranteed benefit increases must also be awarded as a specific dollar amount.

### ***Upon the death of the former spouse***

If the former spouse dies, a copy of the death certificate must be submitted to ORS and all payments to the former spouse under the DRO will cease.

If the former spouse predeceases the retirant, the retirant’s pension will be adjusted to reflect the share of the pension previously assigned to the former spouse under the DRO:

- If a survivor option was not elected at the time of retirement or was voided pursuant to the divorce, the retirant’s pension will be increased by the amount paid to the former spouse under the DRO.
- If, at the time of retirement, the retirant elected a survivor option and designated the former spouse as beneficiary and if that option remains in effect, the retirant’s pension will be increased by the amount paid to the former spouse under the DRO and will be adjusted to a straight life allowance.

### ***Upon the death of the retirant***

If the retirant dies, all DRO payments cease to the former spouse. If a survivor option was chosen at retirement and remains in effect, the survivor pension will become payable to the former spouse the first day of the month following the retirant's death.

***Health, dental, vision, and life insurance information***

Effective the date of divorce, the former spouse is no longer eligible for the retirant's health, dental, vision, and life insurance coverages. It is the retirant's responsibility to remove the former spouse from the insurance coverages by completing an *ORS Insurance Change Request form* and returning it to ORS along with a copy of the Judgment of Divorce as soon as possible.

Pursuant to federal law, a divorced spouse removed from health, dental, and vision insurance(s) may continue the retirement system's group plan(s) for up to three years through the COBRA direct pay insurance program. The coverage will not change. He/she is required to pay 102 percent of the insurance premiums. Insurance rates are available upon request.

For information concerning the COBRA direct pay insurance program, you may contact our office at the address below:

Department of Management and Budget  
Office of Retirement Services  
P.O. Box 30171  
Lansing, MI 48909  
Phone (517) 322-5103 in Lansing  
or (800) 381-5111  
Fax (517) 322-6988

***Other comments***

- The retirement system prohibits a refund of member contributions to a retirant.
- Payments from the retirement system to the former spouse cannot be converted to a lump sum distribution or to provide a survivor benefit.
- Section 402(a) of the Internal Revenue Code requires that the recipient of funds from a qualified retirement plan must pay taxes on the distribution.

***How to contact the State of Michigan 401(k) and 457 plans***

If you are a member of the State Employees', State Police or Judges Retirement System and enrolled in the State's 401(k) or 457 plans, contact CitiStreet to change your beneficiary.

CitiStreet  
Attn: State of Michigan Plan Administrator  
P.O. Box 55497  
Boston, MA 02205-5497  
(800) 748-6128

## About the Sample Domestic Relations Order

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ORS has developed a sample Domestic Relations Order (DRO) that can be used for retirants of each system. Submitted court orders that follow the sample DRO *exactly* can be approved by ORS more quickly and without modifications. While the sample DRO may not cover every possible type of valid provision, court orders that depart from the sample will require a more detailed review and may take longer to process.

The sample DRO is designed to be flexible within the constraints of the applicable retirement statute and other applicable law.

### *Note*

When reviewing the sample DRO, please note the text in square brackets “[ ]” offers you a choice between several options. Only one option should be selected and included in the DRO. Comments and explanations are shown inside parenthesis “()” and should not be included in the DRO.

### *For example*

If the retirant is a member of the Michigan Public School Employees Retirement System and the following is displayed:

**[Michigan Public School Employees/State Employees'/Michigan State Police/Judges]  
\_\_\_\_\_ Retirement System**

Insert the appropriate retirement system:

**Michigan Public School Employees Retirement System**

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
Plaintiff

vs.

Case No. \_\_\_\_\_

HON. \_\_\_\_\_

\_\_\_\_\_  
Defendant

\_\_\_\_\_/

\_\_\_\_\_  
P \_\_\_\_\_

Attorney for Plaintiff  
(Address) \_\_\_\_\_

(Phone #) \_\_\_\_\_

\_\_\_\_\_/

\_\_\_\_\_  
P \_\_\_\_\_

Attorney for Defendant  
(Address) \_\_\_\_\_

(Phone #) \_\_\_\_\_

\_\_\_\_\_/

Choose the appropriate system in brackets. Only one retirement system should be listed

Domestic Relations Order for the  
**[Michigan Public School Employees/State Employees/  
Michigan State Police/Judges]** \_\_\_\_\_  
Retirement System

At a session of said Court, held in the courthouse, in the city of \_\_\_\_\_,  
County of \_\_\_\_\_, State of Michigan,  
on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

PRESENT: HON. \_\_\_\_\_

Choose the appropriate term, system, and Act that apply in brackets. Only one system and public act should be listed.

This Order is intended to serve as a Domestic Relations Order (DRO) by which the **[Plaintiff/Defendant]**, \_\_\_\_\_, assigns a portion of **[his/her]** retirement benefits, under the retirement system specified below, to the **[Plaintiff/Defendant]**, \_\_\_\_\_, in accordance with MCL 552.18, MCL 38.1684(2), and the \_\_\_\_\_ **[Michigan Public School Employees/State Employees'/Michigan State Police/Judges]** Retirement Act \_\_\_\_\_, **[1980 PA 300, MCL 38.1301 et seq** (for Michigan Public School Employees); or **1943 PA 240, MCL 38.1 et seq** (for State Employees); or **1986 PA 182, MCL 38.1601 et seq** (for State Police); or **1992 PA 234, MCL 38.2101 et seq** (for Judges)].

Choose the appropriate system in brackets. Only one system should be listed.

1. The Retirement System (the Plan) subject to this Order is as follows:

**[Michigan Public School Employees/State Employees/Michigan State Police/Judges]** \_\_\_\_\_ **Retirement System**  
Department of Management and Budget  
Attention: Plan Administrator  
P.O. Box 30171  
Lansing, Michigan 48909-7671  
(517) 322-5103 in Lansing or (800) 381-5111

Choose the appropriate term in brackets.

2. The Retirant is the **[Plaintiff/Defendant]**, \_\_\_\_\_,  
Social Security No. \_\_\_\_-\_\_\_\_-\_\_\_\_; Date of Birth \_\_\_\_\_;  
Retirement effective date \_\_\_\_\_, Option chosen at retirement \_\_\_\_\_,  
Whose last known address is:  
\_\_\_\_\_  
\_\_\_\_\_.

Choose the appropriate term in brackets.

3. The Former Spouse is the **[Plaintiff/Defendant]**, \_\_\_\_\_,  
Social Security No. \_\_\_\_-\_\_\_\_-\_\_\_\_; Date of Birth \_\_\_\_\_;  
Whose last known address is:  
\_\_\_\_\_  
\_\_\_\_\_.

4. The Retirant and the Former Spouse were married on \_\_\_\_\_  
and were divorced on \_\_\_\_\_.

Choose the appropriate term in brackets.

5. The Retirant assigns to the Former Spouse a portion of [his/her] benefits from the Plan and the Plan will pay benefits to the Former Spouse according to the following terms and conditions.

Choose either Alternate 1 or Alternative 2 below, using the notes on the left.

Use Alternative 1 to assign a percentage of the retirant's pension to the former spouse.

**Alternative 1**

It is the parties' intention, and the order of this Court, that the Former Spouse receive a monthly benefit from the Plan of \_\_\_\_\_% of the Retirant's pension, which was effective on \_\_\_\_\_ (**effective date of retirant's pension**). This assignment includes a prorata share of any guaranteed benefit increases. If the Former Spouse predeceases the Retirant, all benefits payable to the Former Spouse under the terms of this order will revert to the Retirant. If the Retirant predeceases the Former Spouse, all benefits payable to the Former Spouse under this Order will permanently cease.

Use Alternative 2 to assign a dollar amount of the retirant's pension to the former spouse.

**Alternative 2**

It is the parties' intention, and the order of this Court, that the Former Spouse receive a monthly benefit from the Plan of \$\_\_\_\_\_ from the Retirant's pension, which was effective on \_\_\_\_\_ (**effective date of retirant's pension**). This assignment will also include \$\_\_\_\_\_ of any guaranteed benefit increase. If the Former Spouse predeceases the Retirant, all benefits payable to the Former Spouse under the terms of this order will revert to the Retirant. If the Retirant predeceases the Former Spouse, all benefits payable to the Former Spouse under this Order will permanently cease.

Optional Paragraph 5a may be used alone or with one of Alternatives 1-2 in paragraph 5 above. Choose the applicable survivor option in brackets.

- 5a. *If, at the time of retirement, the retirant elected a survivor option and designated the former spouse as his or her beneficiary, the DRO may be used to void that survivor option. If the survivor option is voided, the retirant's benefit will revert to a straight life option. A new beneficiary may not be selected. To declare the survivor option null and void the following language is required.*

The plan administrator shall, upon receipt of this order, negate and declare null and void, the Retirant's election of the \_\_\_\_\_ [50%, 75%, or 100%] survivor option previously filed with the plan administrator, thereby relinquishing all of the Former Spouse's rights to any pension or benefit after the death of the Retirant. Beginning the first month following the presentation of a certified copy of this order to the plan administrator, the Retirant's retirement allowance shall revert to a straight life allowance.

Note: Optional Paragraph 5a may not be used by retirant's of the State Police Retirement System.

6. This assignment of benefits does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan. This assignment does not require the Plan to provide increased benefits, determined on the basis of actuarial equivalent values. This assignment does not require the Plan to provide benefits to the Former Spouse that are required to be paid to another individual under another DRO or EDRO previously accepted by the Plan.
  
7. The Retirant, the Former Spouse, and the Court intend this order to be a DRO under the Plan and applicable law.
  
8. In the event the administrator of the Plan determines this order not to be an acceptable DRO, the Retirant and the Former Spouse hereby agree to submit to and request a court of competent jurisdiction to modify the order to make it a DRO acceptable by the Plan in such a manner that will reflect the parties' intent as herein expressed and thereafter to enter an order modifying this Order to comply with the Plan and applicable law.

\_\_\_\_\_  
Circuit Court Judge

Approved for entry by the Court:

\_\_\_\_\_  
Attorney for Plaintiff

Date \_\_\_\_\_

\_\_\_\_\_  
Attorney for Defendant

Date \_\_\_\_\_

Distribution of copies:      Original to Circuit Court Clerk  
    Certified Copy to Plan Administrator (*address in number 1*)