



**House
Legislative
Analysis
Section**

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RETIREMENT/DIVORCED PERSONS

House Bill 4761

Sponsor: Rep. Nick Ciaramitaro

House Bill 4762

Sponsor: Rep. Mary C. Brown

House Bill 4763

Sponsor: Rep. Terry London

House Bills 4764 and 4768

Sponsor: Rep. Justine Barns

House Bill 4765

Sponsor: Rep. Michael E. Nye

House Bill 4766

Sponsor: Rep. David M. Gubow

House Bill 4767

Sponsor: Rep. Bill Martin

House Bill 4769

Sponsor: Rep. Frank M. Fitzgerald

**Committee: Senior Citizens
& Retirement**

Complete to 5-20-91

A SUMMARY OF HOUSE BILLS 4761-4769 INTRODUCED 5-1-91

House Bills 4761 through 4769 would amend the various retirement system acts to provide that retirement benefits would be subject to qualified domestic relations orders in relation to child support, alimony, or marital property rights of an "alternate payee" (a spouse under a judgment of separate maintenance, or a former spouse, child, or other dependent named in an eligible domestic relations order). The provisions of the bill would apply to a member or deferred member's retirement allowance or optional benefit, to regular or reduced retirement allowances, and to the pensions and benefits of former deceased members and those who had received disability or duty disability allowances.

The affected retirement systems would be those for public school employees (House Bill 4761, MCL 38.1346 et al.); state employees (House Bill 4762, MCL 38.20 et al.); county employees (House Bill 4763, MCL 46.12a); municipal employees (House Bill 4764, MCL 38.1510 et al.); probate judges (House Bill 4765, MCL 38.916 et al.); judges (House Bill

4766, MCL 38.813a et al.); state police (House Bill 4767, MCL 38.1623 et al.); fire and police officers (House Bill 4768, MCL 38.556 et al.); and legislators (House Bill 4769, MCL 38.1023 et al.).

Eligible Domestic Relations Orders (EDROs). Under the bill, the right of an alternate payee to an actual interest in a share of a benefit that was or would become payable to a member under a qualified domestic relations order could not be considered immune from legal process. The provisions of the bill would apply to domestic relations orders filed with the retirement system or plan administrator before (as well as after) the effective date of the bill if the retirement system were already making payments, or to the extent that the domestic relations order were consistent with the provisions of the bill. The alternate payee would be entitled to an actual interest if the domestic relations order met the following requirements:

- The order contained the name, last known address, and social security number of the member and of the alternate payee.

- The order stated the amount or percentage of the benefit to be paid to the alternate payee or the manner under which the retirement system is to determine the amount or percentage, including the proportional share, if any.

- The order stated that it applied to the appropriate retirement system, and that the system would make payments.

- The order did not require the retirement system to provide a type or form of benefit not provided by the act, nor a payment option not otherwise provided by the bill, and did not require the system to provide an increased benefit determined on the basis of actuarial value.

- The order did not require the payment of a benefit that was required to be paid to another alternate payee under a previously filed eligible domestic relations order.

- The order was filed before the member's retirement allowance effective date.

The retirement system would be required to establish a reasonable procedure to determine if a domestic relations order were eligible, and to notify the member and the alternate payee named in the order of its decision.

Payment to an alternate payee named in an EDRO would begin on the first day of the month following the month in which the domestic relations order were determined to be eligible, or the first day of the month following the month in which a benefit were payable under the order, whichever were later. Should the determination be made that a domestic relations order was not "eligible" under the bill's requirements, an amended order could be filed with the retirement system.

Nothing in the bill could be construed as a prohibition against a participant, alternate payee, or court from filing an amended domestic relations order.

Forms of Payment. Under the bill, an EDRO could provide for the payment of a benefit to an alternate payee, effective on or after the member's earliest retirement date, but before the participant terminated employment. The bill would require that the payment of the benefit be in one of the following forms:

--Payment of a single life annuity that was equal to the actuarial equivalent of the alternate payee's share of the benefit, payable throughout the life of the alternate payee. If the participant were entitled to an unreduced benefit, then the alternate payee's straight life annuity would be based upon the participant's unreduced retirement allowance; if, however, the participant were only entitled to a reduced retirement allowance, then the alternate payee's straight life annuity would be based upon the participant's reduced retirement allowance.

--Payment of a reduced benefit that was equal to the actuarial equivalent of the total benefit being divided under the EDRO payable throughout the lives of the participant and the alternate payee. Should the alternate payee predecease the member, the alternate payee's benefit would be payable to the member. Should the member predecease the alternate payee, the survivor portion of the reduced benefit would be payable to the alternate payee.

--Payment of the alternate payee's share of the benefit converted to a single life annuity for the life of the alternate payee.

Should an alternate payee die before receiving any payment, his or her interest would revert to the member.

Under the bill, an alternate payee who elected to receive payments when the member reached the "earliest retirement age," but before separation from service, would only be entitled to the actuarial equivalent of the amount that would have been received if he or she had elected instead to wait until the member reached age 60. If the participant retired before age 60, however, the retirement system would be required to recalculate the actuarial reduced amount, and if the recalculated amount were more than the amount currently being paid, then the recalculated amount would be paid, effective the first day of the month immediately following the month during which the member retired. An eligible domestic relations order could also provide for a former spouse to receive benefits as a surviving spouse. If the amount or percentage of the benefit to be paid to a spouse under a judgment of separate maintenance, or to a former spouse as the surviving spouse, were less than the entire amount he or she would have received as the surviving spouse, then the surviving spouse or other beneficiary would be entitled to receive that portion of the retirement allowance not payable to a spouse or to a former spouse.

Reduced Benefits after Divorce. The bills would also consider a member's election to receive a reduced retirement allowance void if a judgment, or amended judgment, of divorce, award, or court order, entered after the effective date of the bills, provided that the reduced retirement option be considered void. Under these circumstances, the retirement allowance would revert to a straight retirement allowance, subject to an award or court order. This provision could not supersede a judgment of divorce or court order already in

effect on the effective date of the bill; nor would it require the retirement system to distribute benefits on behalf of a retirant in an amount that exceeded the actuarial determined amount that would otherwise have been payable had the divorce judgment not been rendered.