

**SUBSTITUTE FOR
HOUSE BILL NO. 4054**

A bill to amend 1991 PA 46, entitled
"Eligible domestic relations order act,"
by amending sections 2 and 10 (MCL 38.1702 and 38.1710), section 2
as amended by 2008 PA 348.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Alternate payee" means a spouse of a participant under a
3 judgment of separate maintenance, or a former spouse, child, or
4 dependent of a participant, who is named in an eligible domestic
5 relations order.

6 (b) "Benefit" means an annuity, a pension, a retirement
7 allowance, or an optional benefit accrued or accruing to a
8 participant under a retirement system or a postretirement subsidy
9 payable to a participant under a retirement system.

1 (c) "Domestic relations order" means a judgment, decree, or
2 order of a court made ~~pursuant~~**ACCORDING** to the domestic relations
3 law of this state and relating to the provision of alimony
4 payments, child support, or marital property rights to a spouse of
5 a participant under a judgment of separate maintenance, or to a
6 former spouse, child, or dependent of a participant.

7 (d) "Earliest retirement date" means the earliest date on
8 which a participant meets all of the requirements for retirement
9 under a retirement system except for termination of employment.

10 (e) "Eligible domestic relations order" or "EDRO" means a
11 domestic relations order that is considered an eligible domestic
12 relations order under section 11 or that meets all of the following
13 requirements:

14 (i) The domestic relations order states the names and last
15 known addresses of the participant and alternate payee.

16 (ii) The domestic relations order refers to the attachment to
17 the domestic relations order described in subparagraph (ix).

18 (iii) The domestic relations order states the amount or
19 percentage of the benefit to be paid to an alternate payee, or the
20 manner under which the retirement system is to determine the amount
21 or percentage of the benefit to be paid to an alternate payee.

22 (iv) The domestic relations order states that it applies to the
23 retirement system and that the retirement system shall make
24 payments to the alternate payee as required under the eligible
25 domestic relations order and this act.

26 (v) The domestic relations order does not require the
27 retirement system to provide a type or form of benefit not provided

1 by the retirement system or a form of payment not provided by this
2 act.

3 (vi) The domestic relations order does not require the
4 retirement system to provide an increased benefit determined on the
5 basis of actuarial value.

6 (vii) The domestic relations order does not require the payment
7 of a benefit to an alternate payee that is required to be paid to
8 another alternate payee under a previously filed eligible domestic
9 relations order.

10 (viii) The domestic relations order is filed **WITH THE RETIREMENT**
11 **SYSTEM** before the participant's retirement allowance effective date
12 **OR THE PARTICIPANT'S DEATH, WHICHEVER OCCURS FIRST.**

13 (ix) The domestic relations order requires that the social
14 security numbers of the participant and the alternate payee be sent
15 to the retirement system in an attachment to the order. The
16 attachment shall not be filed with the court, but shall be attached
17 to the domestic relations order when it is sent to the plan
18 administrator for approval.

19 **(F) "FILED WITH THE RETIREMENT SYSTEM" MEANS THAT THE**
20 **RETIREMENT SYSTEM HAS DETERMINED THAT THE DOMESTIC RELATIONS ORDER**
21 **SUBMITTED FOR FILING IS ACCEPTABLE AS AN EDRO.**

22 **(G) ~~(f)~~**"Participant" means a member, deferred member, vested
23 former member, deceased former member, or retirant under the
24 retirement system.

25 **(H) ~~(g)~~**"Postretirement subsidy" includes, but is not limited
26 to, all of the following:

27 (i) A supplemental annuity.

(ii) A supplemental payment to a participant.

(iii) A percentage increase to a benefit payable to a participant.

(iv) Any other payment to a participant or increase to a benefit payable to a participant, excluding health benefits.

(I) ~~(h)~~—"Retirement system" means a public employee retirement system created and established by this state or any political subdivision of this state.

Sec. 10. (1) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,** **THE** retirement system shall, within a reasonable period of time after receiving a domestic relations order, determine if the domestic relations order is an EDRO under this act. If the retirement system determines that the domestic relations order is an EDRO under this act, the retirement system shall promptly notify the participant and alternate payee named in the EDRO that the domestic relations order is an EDRO. The retirement system shall begin the payment of a benefit under this act ~~pursuant~~ **ACCORDING** to the EDRO and this act on the first day of the month following the month in which the domestic relations order was determined to be an EDRO or the first day of the month following the month in which a benefit is payable under the EDRO and this act, whichever is later. If the retirement system determines that the domestic relations order is not an EDRO under this act, the retirement system shall promptly notify the participant and alternate payee named in the domestic relations order that the domestic relations order is not an EDRO. The retirement system shall specify in the notice why the retirement system determined that the domestic relations order is

1 not an EDRO under this act. A determination by the retirement
2 system that a domestic relations order is not an EDRO under this
3 act does not prohibit a participant, alternate payee, or court from
4 filing an amended domestic relations order with the retirement
5 system under this act.

6 (2) UPON THE RETIREMENT SYSTEM'S RECEIPT OF THE DOMESTIC
7 RELATIONS ORDER, THE PARTICIPANT'S RETIREMENT ALLOWANCE EFFECTIVE
8 DATE SHALL BE STAYED AND SHALL NOT OCCUR UNTIL EITHER OF THE
9 FOLLOWING OCCUR:

10 (A) THE RETIREMENT SYSTEM ACCEPTS THE DOMESTIC RELATIONS ORDER
11 FOR FILING AS AN EDRO. IN THIS INSTANCE, THE PARTICIPANT'S
12 RETIREMENT ALLOWANCE EFFECTIVE DATE WILL OCCUR AS IF THE
13 PARTICIPANT'S RETIREMENT ALLOWANCE EFFECTIVE DATE HAD NOT BEEN
14 STAYED.

15 (B) SIXTY DAYS HAVE PASSED STARTING ON THE DATE THE RETIREMENT
16 SYSTEM GIVES THE PARTICIPANT AND ALTERNATE PAYEE NOTICE THAT THE
17 RETIREMENT SYSTEM WILL NOT ACCEPT THE DOMESTIC RELATIONS ORDER FOR
18 FILING AS AN EDRO BECAUSE OF A DEFECT IN THE DOMESTIC RELATIONS
19 ORDER THAT DISQUALIFIES IT AS AN EDRO, UNLESS OTHERWISE PROVIDED IN
20 THIS SUBSECTION. DURING THIS 60-DAY PERIOD, THE PARTIES MAY SUBMIT
21 TO THE RETIREMENT SYSTEM AN AMENDED DOMESTIC RELATIONS ORDER THAT
22 WILL QUALIFY FOR FILING AS AN EDRO. THE RETIREMENT SYSTEM SHALL
23 PROVIDE NOTICE OF REJECTION OF ANY AMENDED DOMESTIC RELATIONS
24 ORDERS IN THE SAME MANNER SET FORTH ABOVE, BUT THERE CAN ONLY BE
25 ONE 60-DAY PERIOD AND ONLY WITH RESPECT TO REJECTION OF THE FIRST
26 DOMESTIC RELATIONS ORDER SUBMITTED TO THE RETIREMENT SYSTEM FOR
27 FILING AS AN EDRO. IF THE 60-DAY PERIOD IS APPLICABLE AND THE

1 PARTIES SUBMIT IN A TIMELY MANNER A DOMESTIC RELATIONS ORDER THAT
2 IS ACCEPTABLE AS AN EDRO, BUT THE RETIREMENT SYSTEM DOES NOT MAKE
3 THIS DETERMINATION UNTIL AFTER EXPIRATION OF THE 60-DAY PERIOD, THE
4 PARTICIPANT'S RETIREMENT ALLOWANCE EFFECTIVE DATE WILL BE FURTHER
5 STAYED UNTIL THE RETIREMENT SYSTEM MAKES THIS DETERMINATION. IF THE
6 60-DAY PERIOD IS APPLICABLE AND THE PARTICIPANT DIES OR THE PARTIES
7 FAIL TO SUBMIT TO THE RETIREMENT SYSTEM A DOMESTIC RELATIONS ORDER
8 THAT QUALIFIES AS AN EDRO BEFORE EXPIRATION OF THE 60-DAY PERIOD,
9 THE RETIREMENT SYSTEM SHALL NOT ACCEPT FOR FILING AS AN EDRO ANY
10 DOMESTIC RELATIONS ORDERS PERTAINING TO THE PARTICIPANT.

11 (3) THE EDRO CANNOT BE AMENDED, VACATED, OR OTHERWISE SET
12 ASIDE AFTER THE RETIREMENT SYSTEM HAS MADE THE FIRST PAYMENT UNDER
13 THE EDRO OR AFTER THE PARTICIPANT DIES, WHICHEVER OCCURS FIRST.

14 (4) THE RETIREMENT SYSTEM SHALL PROVIDE ALL NOTICE IT IS
15 REQUIRED TO GIVE TO THE PARTICIPANT OR ALTERNATE PAYEE UNDER THIS
16 ACT BY FIRST-CLASS MAIL ADDRESSED TO THE PARTICIPANT AND ALTERNATE
17 PAYEE AT THE ADDRESS LISTED FOR EACH IN THE DOMESTIC RELATIONS
18 ORDER SUBMITTED TO THE RETIREMENT SYSTEM FOR FILING AS AN EDRO. IF
19 NO ADDRESS IS LISTED FOR THE PARTICIPANT IN THE DOMESTIC RELATIONS
20 ORDER, THE RETIREMENT SYSTEM SHALL MAIL THE NOTICE TO THE LAST
21 KNOWN ADDRESS OF THE PARTICIPANT THAT THE RETIREMENT SYSTEM HAS IN
22 ITS FILES. IF NO ADDRESS IS LISTED FOR THE ALTERNATE PAYEE IN THE
23 DOMESTIC RELATIONS ORDER, NOTICE TO THE PARTICIPANT IS NOTICE TO
24 THE ALTERNATE PAYEE. NOTICE IS GIVEN IF THE RETIREMENT SYSTEM
25 COMPLIES WITH THIS SECTION AND UPON THE DATE THE NOTICE IS MAILED.