

SENATE 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

1 payable to a participant under a retirement system.

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

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

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

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

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

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

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

27 (v) The domestic relations order does not require the

1 retirement system to provide a type or form of benefit not provided
2 by the retirement system or a form of payment not provided by this
3 act.

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

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

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

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

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

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

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

1 (i) A supplemental annuity.

2 (ii) A supplemental payment to a participant.

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

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

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

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

1 retirement system determined that the domestic relations order is
2 not an EDRO under this act. ~~A-EXCEPT AS OTHERWISE PROVIDED IN THIS~~
3 ~~SECTION, A~~ determination by the retirement system that a domestic
4 relations order is not an EDRO under this act does not prohibit a
5 participant, alternate payee, or court from filing an amended
6 domestic relations order with the retirement system under this act.

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

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

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

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

12 (3) IF, UPON RECEIPT OF A RETIREMENT APPLICATION FROM A
13 PARTICIPANT, THE RETIREMENT SYSTEM DETERMINES THAT A PREVIOUSLY
14 SUBMITTED DOMESTIC RELATIONS ORDER THAT IS INTENDED TO QUALIFY AS
15 AN EDRO DOES NOT QUALIFY AS AN EDRO, THE RETIREMENT SYSTEM SHALL
16 NOTIFY THE PARTICIPANT AND ALTERNATE PAYEE STATING THE REASONS WHY
17 THE DOMESTIC RELATIONS ORDER DOES NOT QUALIFY AS AN EDRO, IF THE
18 RETIREMENT SYSTEM HAS NOT ALREADY PROVIDED THAT NOTICE. IN CASES
19 WHERE NOTICE IS REQUIRED TO BE GIVEN UNDER THIS SECTION, THE
20 PARTICIPANT'S RETIREMENT ALLOWANCE EFFECTIVE DATE IS STAYED AS
21 PROVIDED IN THIS SECTION.

22 (4) IF AN EDRO IS FILED WITH THE RETIREMENT SYSTEM, BUT THE
23 PARTICIPANT AND ALTERNATE PAYEE WISH TO FILE AN AMENDED EDRO, THEY
24 MAY DO SO AT ANY TIME BEFORE THE PARTICIPANT'S RETIREMENT ALLOWANCE
25 EFFECTIVE DATE, OR DEATH, WHICHEVER OCCURS FIRST. IN THIS INSTANCE,
26 THE PARTICIPANT'S RETIREMENT ALLOWANCE EFFECTIVE DATE WILL NOT BE
27 STAYED UPON THE SUBMISSION OF THE DOMESTIC RELATIONS ORDER. IF THE

1 PARTICIPANT AND ALTERNATE PAYEE FAIL TO SUBMIT A DOMESTIC RELATIONS
2 ORDER THAT QUALIFIES AS AN EDRO BEFORE THE PARTICIPANT'S RETIREMENT
3 ALLOWANCE EFFECTIVE DATE OR BEFORE THE PARTICIPANT'S DEATH,
4 WHICHEVER OCCURS FIRST, THE LATEST EDRO FILED WITH THE RETIREMENT
5 SYSTEM GOVERNS. THE EDRO CANNOT BE AMENDED, VACATED, OR OTHERWISE
6 SET ASIDE AFTER THE RETIREMENT SYSTEM HAS MADE THE FIRST PAYMENT
7 UNDER THE EDRO OR AFTER THE PARTICIPANT DIES, WHICHEVER OCCURS
8 FIRST.

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