

HOUSE BILL No. 4054

January 22, 2013, Introduced by Rep. Heise and referred to the Committee on Judiciary.

A bill to amend 1991 PA 46, entitled
"Eligible domestic relations order act,"
by amending section 2 (MCL 38.1702), 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.

10 (c) "Domestic relations order" means a judgment, decree, or

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

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

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

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

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

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

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

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

1 act.

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

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

9 (viii) The domestic relations order is filed before the
10 participant's retirement allowance effective date **OR THE**
11 **PARTICIPANT'S DEATH, WHICHEVER OCCURS FIRST. IF THAT DOMESTIC**
12 **RELATIONS ORDER IS SUBMITTED TO THE RETIREMENT SYSTEM FOR REVIEW**
13 **BEFORE THE PARTICIPANT'S RETIREMENT ALLOWANCE EFFECTIVE DATE, BUT**
14 **THE RETIREMENT SYSTEM DETERMINES THAT THE DOMESTIC RELATIONS ORDER**
15 **FAILS TO QUALIFY AS AN EDRO, THERE IS A 60-DAY PERIOD FROM THE DATE**
16 **THE RETIREMENT SYSTEM NOTIFIES THE PARTIES THAT THE ORDER FAILS TO**
17 **QUALIFY IN WHICH THE PARTICIPANT'S RETIREMENT ALLOWANCE EFFECTIVE**
18 **DATE SHALL NOT OCCUR SO THAT THE PARTIES MAY FILE AN AMENDED**
19 **DOMESTIC RELATIONS ORDER THAT WILL QUALIFY AS AN EDRO. THE 60-DAY**
20 **PERIOD DOES NOT LIMIT THE PARTIES FROM FILING AN EDRO AT ANY TIME**
21 **BEFORE THE PARTICIPANT'S RETIREMENT EFFECTIVE DATE.**

22 (ix) The domestic relations order requires that the social
23 security numbers of the participant and the alternate payee be sent
24 to the retirement system in an attachment to the order. The
25 attachment shall not be filed with the court, but shall be attached
26 to the domestic relations order when it is sent to the plan
27 administrator for approval.

1 (f) "Participant" means a member, deferred member, vested
2 former member, deceased former member, or retirant under the
3 retirement system.

4 (g) "Postretirement subsidy" includes, but is not limited to,
5 all of the following:

6 (i) A supplemental annuity.

7 (ii) A supplemental payment to a participant.

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

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

12 (h) "Retirement system" means a public employee retirement
13 system created and established by this state or any political
14 subdivision of this state.