

Act No. 32
Public Acts of 2013
Approved by the Governor
May 14, 2013
Filed with the Secretary of State
May 16, 2013
EFFECTIVE DATE: May 16, 2013

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Rep. Heise

ENROLLED HOUSE BILL No. 4054

AN ACT to amend 1991 PA 46, entitled "An act to authorize the payment of public employee retirement system assets to certain individuals; and to prescribe the powers and duties of certain retirement systems, state departments, public officials, and public employees," 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:

Sec. 2. As used in this act:

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

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

(c) "Domestic relations order" means a judgment, decree, or order of a court made according to the domestic relations law of this state and relating to the provision of alimony payments, child support, or marital property rights to a spouse of a participant under a judgment of separate maintenance, or to a former spouse, child, or dependent of a participant.

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

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

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

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

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

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

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

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

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

(viii) The domestic relations order is filed with the retirement system before the participant's retirement allowance effective date or the participant's death, whichever occurs first.

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

(f) "Filed with the retirement system" means that the retirement system has determined that the domestic relations order submitted for filing is acceptable as an EDRO.

(g) "Participant" means a member, deferred member, vested former member, deceased former member, or retirant under the retirement system.

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

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

Sec. 10. (1) 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 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 not an EDRO under this act. Except as otherwise provided in this section, a determination by the retirement system that a domestic relations order is not an EDRO under this act does not prohibit a participant, alternate payee, or court from filing an amended domestic relations order with the retirement system under this act.

(2) Upon the retirement system's receipt of the domestic relations order, the participant's retirement allowance effective date shall be stayed and shall not occur until either of the following occur:

(a) The retirement system accepts the domestic relations order for filing as an EDRO. In this instance, the participant's retirement allowance effective date will occur as if the participant's retirement allowance effective date had not been stayed.


(b) Sixty days have passed starting on the date the retirement system gives the participant and alternate payee notice that the retirement system will not accept the domestic relations order for filing as an EDRO because of a defect in the domestic relations order that disqualifies it as an EDRO, unless otherwise provided in this subsection. During this 60-day period, the parties may submit to the retirement system an amended domestic relations order that will qualify for filing as an EDRO. The retirement system shall provide notice of rejection of any amended domestic relations orders in the same manner set forth above, but there can only be one 60-day period and only with respect to rejection of the first domestic relations order submitted to the retirement system for filing as an EDRO. If the 60-day period is applicable and the parties submit in a timely manner a domestic relations order that is acceptable as an EDRO, but the retirement system does not make this determination until after expiration of the 60-day period, the participant's retirement allowance effective date will be further stayed until the retirement system makes this determination. If the 60-day period is applicable and the participant dies or the parties fail to submit to the retirement system a domestic relations order that qualifies as an EDRO before expiration of the 60-day period, the retirement system shall not accept for filing as an EDRO any domestic relations orders pertaining to the participant.

(3) If, upon receipt of a retirement application from a participant, the retirement system determines that a previously submitted domestic relations order that is intended to qualify as an EDRO does not qualify as an EDRO, the retirement system shall notify the participant and alternate payee stating the reasons why the domestic relations order does not qualify as an EDRO, if the retirement system has not already provided that notice. In cases where notice is required to be given under this section, the participant's retirement allowance effective date is stayed as provided in this section.

(4) If an EDRO is filed with the retirement system, but the participant and alternate payee wish to file an amended EDRO, they may do so at any time before the participant's retirement allowance effective date, or death, whichever occurs first. In this instance, the participant's retirement allowance effective date will not be stayed upon the submission of the domestic relations order. If the participant and alternate payee fail to submit a domestic relations order that qualifies as an EDRO before the participant's retirement allowance effective date or before the participant's death, whichever occurs first, the latest EDRO filed with the retirement system governs. The EDRO cannot be amended, vacated, or otherwise set aside after the retirement system has made the first payment under the EDRO or after the participant dies, whichever occurs first.

(5) The retirement system shall provide all notice it is required to give to the participant or alternate payee under this act by first-class mail addressed to the participant and alternate payee at the address listed for each in the domestic relations order submitted to the retirement system for filing as an EDRO. If no address is listed for the participant in the domestic relations order, the retirement system shall mail the notice to the last known address of the participant that the retirement system has in its files. If no address is listed for the alternate payee in the domestic relations order, notice to the participant is notice to the alternate payee. Notice is given if the retirement system complies with this section and upon the date the notice is mailed.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor