

**[SAMPLE DRO - TO BE USED IN THE EVENT OF
DIVORCE AFTER RETIREMENT
FOR MEMBER OF RETIREMENT PLAN 4]**

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF _____

Plaintiff,

Case No: _____

Hon: _____

Defendant.

_____/ P _____

Attorney for Plaintiff

{ Address } _____

{ Phone# } _____

_____/ P _____

Attorney for Defendant

{ Address } _____

{ Phone# } _____

DOMESTIC RELATIONS ORDER
FOR THE WAYNE COUNTY EMPLOYEES' RETIREMENT SYSTEM

Plan # _____

At a session of said court, held in the Courthouse,
City of _____, County of _____, State of Michigan

On _____

PRESENT: HON. _____

CIRCUIT COURT JUDGE

This Order is intended to serve as an Domestic Relations Order ("DRO") by which **[Plaintiff/Defendant]**, _____ assigns, a portion of **[his/her]** retirement benefits, under the Wayne County Employees' Retirement System, to the **[Plaintiff/Defendant]** _____ in accordance with the Public Employee Retirement Benefit Protection Act (Public Act 100 of 2002 – MCL 38.1684(2)) and the Support and Parenting Time Enforcement Act (Public Act 295 of 1982 – MCL 552.601 et seq.). **[It is intended that this Order be**

incorporated in the Judgment of Divorce entered _____, ____, and made a part thereof.]

This Order creates and recognizes the existence of an Alternate Payee's right to receive a portion of the Participant's benefits payable under an employer sponsored Defined Contribution Plan that is qualified under Section 401 of the Internal Revenue Code.

This Order is entered pursuant to the authority granted under the applicable domestic relations laws of the State of Michigan.

1. The retirement system (the "Plan") subject to this Order is as follows:

Wayne County Employees' Retirement System
Attn: Director/Deputy Director
28 W. Adams, Suite 1900
Detroit, Michigan 48226

2. The Participant is the **[Plaintiff/Defendant]**, _____. The Participant's Social Security information, Date of Birth, and last known address are contained on the attached Exhibit A, which, for privacy protection, shall not be filed with the Court Clerk, but shall be filed with the parties and the Plan Administrator.

3. The Alternate Payee is the **[Plaintiff/Defendant]**, _____. The Alternate Payee's Social Security information, Date of Birth, and last known address are contained on the attached Exhibit A, which, for privacy protection, shall not be filed with the Court Clerk, but shall be filed with the parties and the Plan Administrator.

The Alternate Payee shall have the duty to notify the Plan Administrator in writing of any changes in her mailing address subsequent to the entry of this order at the Plan's address as stated above.

4. The Participant and the Alternate Payee were married on _____, ____ and were **[divorced/legally separated]** on _____, _____.

5. a. This Order assigns to the Alternate Payee an amount equal to

{SELECT EITHER ALTERNATIVE 1, 2, 3 OR 4}

{Alt.1} [_____] Percent (____%) of the Participant's total account balance accumulated under the Plan as of **[DIVISION DATE]** (or the closest valuation date thereto).

OR

{Alt. 2} _____ Percent (____%) of (A) minus (B) where: (A) equals the Participant's total account balance accumulated under the Plan as of **[DIVISION DATE]**, and (B) equals the Participant's total account balance accumulated under the Plan as of **[START DATE]**.

OR

{Alt. 3} _____ Percent (____%) of the contributions made to the Plan on behalf of the Participant from [START DATE] to [DIVISION DATE], and any gains and losses attributable to such contributions as of [DIVISION DATE]. Any contributions made prior to [START DATE] or after [DIVISION DATE] shall remain the property of the Participant, as shall any gains and losses on such contributions.

OR

{Alt. 4}\$_____, as of [DIVISION DATE].

This amount [**shall/shall not**] be adjusted by any interest and investment earnings (gains and losses) attributable thereto for periods subsequent to [DIVISION DATE], until the date the Alternate Payee's assigned amount is segregated into a separate account for the Alternate Payee. The total account balance to be divided shall include all amounts maintained under all of the various accounts and/or sub accounts established on behalf of the Participant. The Alternate Payee's share of the benefits shall be allocated on a pro-rata basis among all of the accounts and/or investment funds maintained on behalf of the Participant under the Plan.

b. The determination of the amount to be divided shall [**include/exclude**] any outstanding loan balance(s) as of [DIVISION DATE], due to loans taken from the Plan by the Participant, so as [**not to reduce the amount to be divided**] or [**to divide only non-loan assets**]. {This sentence not necessary when assigning a dollar amount}.

Further, such Account Balance shall include all amounts (including plan forfeitures, if applicable) contributed to the Plan on behalf of the Participant after [DIVISION DATE] that are attributable to periods prior to such date.

c. In the event the Alternate Payee does not elect an immediate distribution, [**his/her**] share of the benefits described above shall be segregated and separately maintained in account(s) established on her behalf and shall additionally be credited with any interest and investment income or losses attributable thereto from the segregation date until the date of total distribution to the Alternate Payee.

6. If the Alternate Payee so elects, and if the Plan so allows, the Alternate Payee shall be paid [**his/her**] benefits as soon as administratively feasible following the date Order is approved as a DRO by the Director/Deputy Director, or at the earliest date permitted under the Plan. Benefits will be payable to the Alternate Payee in any form or permissible option otherwise available to Participants and Alternate Payees under the terms of the Plan, including, but not limited to, a single lump-sum cash payment.

7. On and after the date that this Order is deemed to be a Domestic Relations Order, but before the Alternate Payee receives her benefits under the Plan, she shall be entitled to all the rights and election privileges that are afforded to Plan beneficiaries including, but not limited to, the rules regarding the right to designate a beneficiary for death benefit purposes and the right to direct plan investments, only to the extent permitted under the provisions of the Plan.
8. In the event of the Alternate Payee's death prior to the Alternate Payee receiving the full amount of benefits called for under this Order and under the benefit option chosen by the Alternate Payee, such Alternate Payee's beneficiary, as designated on the appropriate form provided by the Plan Administrator (or in the absence of a beneficiary designation, her estate), shall receive the remainder of any unpaid benefits under the term of this Order.
9. In the event that the Participant dies prior to the establishment of separate account(s) in the name of the Alternate Payee, such Alternate Payee shall be treated as the surviving spouse of the Participant for the portion of the Participant's benefits awarded to the Alternate Payee as called for under paragraph 5 of this Order.

Should the Participant pre-decease the Alternate Payee after the new account(s) have been established on her behalf, such Participant's death shall not affect the Alternate Payee's rights to receive her assigned portion of the benefits as set forth herein.

10. This matter arises from an action for divorce in this Court, under the case number set forth at the beginning of this document. Accordingly, this Court has jurisdiction to issue this Order.

In the event that the plan administrator or its authorized agent determines that this Order is not a Domestic Relations Order, both parties shall cooperate with the plan administrator or its authorized agent to make the changes necessary in order for the parties to obtain an amended Order that meets the requirements for a Domestic Relations Order. For this purpose, this Court expressly reserves jurisdiction over the divorce proceeding involving the Participant and the Alternate Payee and the Participant's interest in the Plan.

11. For purposes of Sections 402(a)(1) and 72 of the Internal Revenue Code, any Alternate Payee who is the spouse or former spouse of the Participant shall be treated as the distributee of any distribution or payments made to the Alternate Payee under the terms of this Order, and as such, will be required to pay the appropriate federal income taxes on such distribution.
12. In the event that the Plan Trustee inadvertently pays to either party any benefits that are assigned to the other party pursuant to the terms of this Order, the party in receipt shall immediately reimburse the other party to the extent of such inadvertent benefit payments,

and shall forthwith pay such amounts so received directly to the other party within ten (10) days of notice of receipt.

13. The Participant shall not take any actions, affirmative or otherwise, that can circumvent the terms and provisions of this Domestic Relations Order, or that could diminish or extinguish the rights and entitlements of the Alternate Payee as set forth herein. Should the Participant take any action or inaction to the detriment of the Alternate Payee, he (or his estate) shall be required to make sufficient payments directly to the Alternate Payee to the extent necessary to neutralize the effects of his actions or inactions and to the extent of the Alternate Payee's full entitlements hereunder.
14. In the event that the Plan Administrator determines that an overpayment has been made to the Participant and/or the Alternate Payee for any reason, and the parties cannot come to an agreement regarding their respective liability toward the Plan's recoupment of such overpayments, the Court shall reserve jurisdiction regarding the allocation of such repayments to the Plan between the Participant and the Alternate Payee.

Dated this _____ day of _____, _____
By the Court:

CIRCUIT COURT JUDGE

APPROVED AS TO CONTENT AND FORM

Approved as to form:

_____	Date
Plaintiff	
_____	P _____ Date _____
Attorney for Plaintiff	
_____	Date
Defendant	
_____	P _____ Date _____
Attorney for Defendant	