

[SAMPLE DRO - TO BE USED IN THE EVENT OF DIVORCE
AFTER RETIREMENT FOR
MEMBERS OF RETIREMENT PLANS
5 & 6]

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF _____

Plaintiff,

Case No: _____

vs.

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.]**

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. The Participant assigns to the Alternate Payee a portion of **[his/her]** benefits from the Plan and the Plan will pay benefits to the Alternate Payee according to the following terms and conditions:

(a) It is the parties’ intention, and the order of this Court, that the Alternate Payee is awarded:

{SELECT ALTERNATIVE 1, OR 2}

Alt. 1 _____% of the amount of the Participant’s retirement benefits which are attributable to the Participant and have accrued as of the Participant’s date of

retirement [, which percentage [takes into/ does not take into] consideration the years of service, if any, that were accrued prior to the date of marriage].

OR

Alt. 2 \$ _____, of the Participant's monthly retirement benefit.

At the time of the Participant's retirement, the Participant elected:

{SELECT EITHER ALTERNATIVE 1 OR 2}

Alt. 1 the Plan's Option SL (life payment to the retired member) form of benefit. In the event of the Participant's death prior to the Alternate Payee, payment of benefits to the Alternate Payee will terminate.

OR

Alt. 2 the Plan's [**Option 1 –Life Payment to the Retired Member with a Guaranteed Number of Minimum Payments**] or [**Option 2 - 100% Joint and Survivor Benefit**] or [**Option 3 - 50% Joint and Survivor Benefit**] form of benefit and named the Alternate Payee as [**his/her**] survivor beneficiary. Upon the death of the Participant, benefit payments shall continue to be paid to the Alternate Payee as the named beneficiary.

Optional

- [(b) If the Plan pays any cost of living benefit increase (i.e. non-guaranteed annual increases, supplemental payments/13th checks, one-time increases) on the benefits being paid from the Plan after the date of this Order, the Alternate Payee shall receive a share of each such increase. The Alternate Payee's share of each such increase will be in proportion to the amount of the Participant's retirement allowance that is awarded the Alternate Payee under Paragraph 5(a).]**
- (c) The Alternate Payee shall include in [**his/her**] gross income, for the tax year of receipt, all retirement benefit distributions that [**he/she**] receives pursuant to the Participant's assignment of benefits under this DRO; and, accordingly, the Participant shall not include such benefit distributions in [**his/her**] gross income. The Alternate Payee shall be treated as the sole distributee under IRC Sections 72 and 402 of any payment or distribution that is made to [**him/her**] under the Participant's assignment of benefits under this DRO.
- (d) If the Alternate Payee predeceases the Participant, the Alternate Payee's interest in the Plan shall revert to the Participant.

6. This assignment of benefits shall not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan. This assignment shall not require the Plan to provide increased benefits, determined on the basis of actuarial equivalent values. This assignment shall not require the Plan to provide benefits to the Alternate Payee which are required to be paid to another alternate payee under another order previously determined to be a DRO.
7. The parties agree that their mutual intent is to provide the Alternate Payee with a retirement payment that fairly represents what they have agreed to be the Alternate Payee's marital share of the Participant's accrued retirement benefit as defined in Paragraph 6(a). In the event the Plan Administrator determines this Order not to be a DRO satisfactory to the Plan, the parties hereby agree to submit to and request a court of competent jurisdiction to modify the Order to make it a DRO satisfactory to the Plan in such a manner that will reflect the parties' intent as herein expressed and thereafter to enter an order modifying this Order, said modification order to be entered nunc pro tunc, if appropriate, so as to comply with the Plan and related legislation.
8. This Order is issued pursuant to the laws of the State of Michigan which related to the provisions of child support, alimony payments and marital property rights, as defined spouses and former spouses in actions for divorce.
9. The Participant and the Alternate Payee agree to share any additional actuarial costs and legal costs incurred by the Plan due to this Order or the benefit election by the Alternate Payee under this Order. The Participant and the Alternate Payee agree that any fees or expenses incurred by the Plan due to this Order or the benefit election by the Alternate Payee under this Order be allocated **[insert percentage]** to Participant and **[insert percentage]** to Alternate Payee.

Circuit Court Judge

Approved as to form:

Plaintiff

Date

____ P _____ Date
Attorney for Plaintiff

____ Date
Defendant

____ P _____ Date
Attorney for Defendant

Distribution of copies:

- Original to Circuit Court Clerk
- Certified copy to the Director/Deputy Director of the Retirement System

SAMPLE