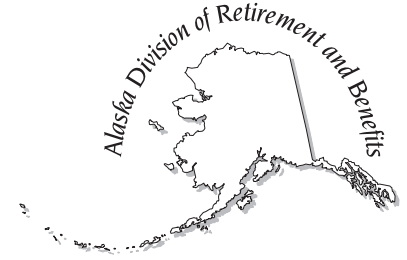


# Divorce or Dissolution and Your Retirement

*A Guide for Members on How Divorce or Dissolution Can Affect Your Benefits*



## **In Alaska, retirement benefits from the:**

- Public Employees' Retirement System (PERS),
- Teachers' Retirement System (TRS),
- Judicial Retirement System (JRS),
- National Guard Naval Militia Retirement System (NGNMRS),
- Alaska Supplemental Annuity Plan (SBS-AP), and
- Alaska Deferred Compensation Plan (DCP)

are all considered to be jointly "owned" by members and their spouses. Upon a divorce or dissolution of marriage, these benefits *may* be divided between you and your spouse or awarded to you only. The following points should be considered if you end your marriage.

## **Benefits do not have to be split!**

Generally, retirement benefits are considered jointly held assets in a similar manner as the house, the car, bank accounts, or other items of value. But, at times, benefits are not divided if the member and spouse have agreed to exchange other assets instead of splitting the retirement benefits.

If you retain full "ownership" of your benefit, your property settlement must **clearly** state your account is not to be divided and you have full ownership - specify the retirement plan by **name**. If you have multiple accounts (like PERS, SBS-AP, and DCP), your divorce or dissolution documents should individually name each account and clearly declare your former spouse has no claim against that specific account. **Do not group your various accounts together under a generic term such as "Retirement Benefits."**

## **If PERS, TRS, JRS, or NGNMRS benefits are divided:**

PERS, TRS, JRS and NGNMRS all allow a former spouse to have an entitlement to a portion of the member's benefit. However, certain rules apply:

- The accounts are **not** divided at the time of the divorce or dissolution;
- The member retains the right to decide when to retire and has great latitude relative to the retirement option elected;
- The former spouse (called the "alternate payee") is entitled to only some portion of the member's **monthly** benefit payment;
- The alternate payee's portion is paid only when the member receives benefits; and
- The alternate payee **may not** name beneficiaries for continued payments after his or her death.

## **Qualified Domestic Relations Orders (QDROs)**

A qualified domestic relations order (QDRO) is a specialized court order that is usually processed at the same time as the divorce or dissolution (processing could happen later after the final decree). This document authorizes the Division of Retirement and Benefits to make payments to both you and your former spouse.

**Remember, QDROs are only necessary if your benefit is to be divided, and one QDRO is needed for each benefit!**

## **Not yet retired...**

Under the PERS, TRS, JRS, and NGNMRS, a *stream of payments* QDRO may be filed that will divide your future benefit once you are receiving those benefits. Your former spouse is considered an alternate payee and will receive payments directly from the retirement system. Your retirement contribution account cannot be split and your alternate payee does not have a choice in benefit options. The future payments may be expressed as one of the following:

- A specified amount;
- A percentage of your total benefit; or
- A formula using years of marriage or dates of your marriage.

## **Survivor Benefits**

A QDRO may award a portion of your benefit to your former spouse as a survivor's benefit in the event you die before you are eligible to retire. If you have remarried before your date of retirement, the survivor's benefit may be split between your former spouse and your spouse at the time of retirement. Your alternate payee's survivor benefit would be calculated on the percent granted by the QDRO. Your current spouse would be entitled to the remainder.

The QDRO can require you select one of the survivor options when you apply for retirement benefits. Your alternate payee would then receive a prorated survivor benefit if he or she survives you. In most cases the cost of providing the survivor benefits to your former spouse will be shared, but can be assigned to either you or to your former spouse. The cost is expressed as an actuarial reduction to your benefit and is based on your age, the age of your alternate payee, and the prorata share of the benefits set out in the QDRO.

If you have remarried before applying for retirement benefits, you can elect survivor coverage for your spouse, and can even select a different option than the one covering your former spouse. After your death, your spouse and former spouse will share the survivor benefit.

Medical benefits are not provided by the retirement plan to former spouses. However, an alternate payee may **purchase** health coverage from the Division of Retirement and Benefits.

## Already retired...

If you are already receiving benefits from the PERS, TRS, JRS, or NGNMRS, a QDRO may be filed dividing your monthly benefit. Although your former spouse will receive payments directly from the retirement system, your retirement account will not be split. The payments may be expressed as one of the following:

- A specified amount;
- A percentage of your total benefit; or
- A formula using years of marriage or dates of your marriage.

## Survivor Benefits

When you retired, you had the opportunity to elect a survivor's option. If you chose a survivor option at retirement, your spouse at retirement is the **only** person eligible for this benefit after you die. A QDRO is not necessary for your former spouse to receive these survivor benefits, and you cannot name another person to receive them. If you did not select a survivor option at retirement, you **cannot** do so now!

In cases where a divorce or dissolution happens **after** retirement, the spouse at retirement is the only survivor, and he or she may get retirement system paid medical coverage after your death.

## If SBS-AP or DCP benefits are divided:

The Alaska Supplemental Annuity Plan (SBS-AP) and Deferred Compensation Plan (DCP) accounts can be split under a *separate interest* QDRO:

- The accounts **are** divided soon after the divorce or dissolution (on acceptance of a qualified domestic relations order - QDRO);
- The alternate payee (your former spouse) has full ownership of his or her own *separate* account;
- Your alternate payee may withdraw funds from that account as soon as it has been established; and
- Your alternate payee **may** name beneficiaries to his or her separate account as long as the State of Alaska maintains that account.

## Qualified Domestic Relations Orders (QDROs)

Remember, a qualified domestic relations order (QDRO) is a specialized court order authorizing the Division of Retirement and Benefits to take money out of your account and set up a separate account for your former spouse. As stated earlier, **QDROs are necessary only if the benefit is to be divided!** You do not have to submit one if you retain full ownership to your account. Make sure your divorce or dissolution documents clearly state your former spouse has no claim against your account.

The SBS-AP and the DCP both require a *separate interest* QDRO. Once accepted by the division, your account is divided and a new account is set up in your alternate payee's name. The alternate payee may keep

his or her account invested through the State of Alaska just like other participants in the plan. The other options are:

- Begin receiving payments under one or more of the payment options;
- Have the entire account paid directly to the alternate payee; or
- Directly roll the account balance into an approved private individual retirement account (IRA).

If the account is left with the State, your alternate payee can control the investments and name beneficiaries to the account in the event of his or her death much like all other participants.

The amount the QDRO specifies to be transferred from your account to your alternate payee's account can be expressed as:

- A particular set dollar figure as of a certain date;
- A percentage of the account as of a certain date; or
- A formula based on years or dates of the marriage.

**Note:** It is important to remember the balances in both the SBS-AP and the DCP change on a **daily basis**. The QDRO must allow for these changes in value. For example, if the balance in your account is \$25,956.56 on the date of divorce, the balance will be different on the day the alternate payee's account is established. The amount may be more or less depending on the investment performance.

## Where to get help...

Dividing benefits is a **legal** issue and many use the services of lawyers. Whether you obtain legal counsel or prepare the documents yourself, **all** of the legal requirements involving your benefits must be resolved before anything can be paid. **No funds** will be disbursed to you from any of your accounts until all these issues have been resolved—even if the responsibility to file the necessary documents rests with your former spouse. The Division of Retirement and Benefits has a booklet available that may help in drafting QDROs. It is available upon request.

## What Tier Am I?

Members who first entered a PERS position and were making contributions:

- **Tier I** — Before 7/1/86.
- **Tier II** — On or after 7/1/86, but before 7/1/96.
- **Tier III** — On or after 7/1/96, but before 7/1/06.

Members who first entered a TRS position and were making contributions:

- **Tier I** — Before 7/1/90.
- **Tier II** — On or after 7/1/90, but before 7/1/06.

The information included here only applies to PERS Tiers I, II, and III, and TRS Tiers I and II.

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