

DISSOLUTION OF MARRIAGE AFTER RETIREMENT



INFORMATION ON DOMESTIC RELATIONS ORDERS - SHARED PAYMENT APPROACH

To assist with any questions that you may have regarding the division of benefits upon the divorce or legal separation of a retired member, please review the enclosed publication titled "MODEL DOMESTIC RELATIONS ORDER D." As indicated by the subtitle of this document ("Dissolution of Marriage AFTER Retirement"), the model language therein is appropriate for members who are already retired and receiving benefit payments from the Sacramento County Employees' Retirement System (SCERS).

In reviewing Model Domestic Relations Order D, you will note that it addresses the impact of a marital dissolution on the joint and survivor annuity offered with the "Unmodified" form of payment, which is the most common benefit selected by retiring members:

Most retirees elect the unmodified payment option which provides for the highest benefit to the retiree and a 60% continuance to an eligible spouse. Once the spouse becomes an ex-spouse they are no longer considered an eligible spouse and are no longer eligible for the 60% survivor benefit if the retiree dies.
["Dissolution of Marriage AFTER Retirement – Time Rule Order", Page 1, Emphasis Added]

As the parties to the marriage proceed with the dissolution and/or the division of community property interests, please be aware that the reference enclosure is strictly informational. Members who terminate their marriage may elect to follow model language offered by SCERS or develop their own domestic relations order (DRO). In either case, the parties to the marriage must provide a draft of the proposed DRO and allow our office to review it prior to seeking court approval of any agreement affecting SCERS.

If you have any questions regarding this memo or the referenced enclosure, please call or write to our office using the contact information below.

1 SACRAMENTO COUNTY EMPLOYEES' RETIREMENT SYSTEM
2 MODEL DOMESTIC RELATIONS ORDER D

3
4 *Dissolution of Marriage **AFTER** Retirement*
5 ***Time Rule Order***
6

7
8 **CAUTION: YOU ARE HEREBY ADVISED TO SEEK COMPETENT LEGAL COUNSEL.**
9

10 The disposition of retirement benefits in domestic relations proceedings involves
11 complex marital rights and tax issues.
12

13 The Sacramento County Employees' Retirement System, its employees, agents and
14 consultants are not authorized to give legal advice and, therefore, make no
15 representation as to the model's sufficiency under applicable federal or state law or as
16 to its legal consequences under your particular fact and circumstances. You should
17 obtain the advice of your own legal counsel to create an appropriate court order for
18 you.
19

20 Retirees elect an option at the time of retirement. Most retirees elect the
21 unmodified option which provides for the highest benefit to the retiree and a 60%
22 continuance to an eligible spouse. Once the spouse becomes an ex-spouse they are
23 no longer considered an eligible spouse and are no longer eligible for the 60% survivor
24 benefit if the retiree dies. If the retiree elected something other than the unmodified
25 option, the divorce would not affect the benefit payable to the beneficiary when the
26 retiree dies.
27
28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 COUNTY OF _____

3
4 In Re the Marriage of _____) Case No. _____

5 Petitioner: _____) **MODEL ORDER D**

6 and _____) STIPULATED DOMESTIC RELATIONS

7 Respondent: _____) ORDER RE: DIVISION OF

8 _____) SACRAMENTO COUNTY EMPLOYEES'

9 _____) RETIREMENT BENEFITS

10
11 WHEREAS, Petitioner and Respondent were married to each other on
12 _____ and separated on _____. The court
13 entered a Judgment dissolving the marriage of Petition and Respondent on
14 _____ and ordering the disposition of the community
15 property interest of the Petitioner and Respondent accrued under the Sacramento
16 County Employees' Retirement System.

17 IT IS HEREBY STIPULATED AND ORDERED:

18 1. As used in this Order, the following terms will have the meanings stated:

19 A. "Participant" means the Respondent, _____, social security
20 number _____, whose last known mailing address is
21 _____

22 .
23 B. "Alternate Payee" means Petitioner _____, social security
24 number _____, whose last known mailing address is
25 _____.

26 C. "Plan" means the Sacramento County Employees' Retirement System
27 ("SCERS") pursuant to the provisions of the County Employees' Retirement Law of
28 1937 vested in the Board of Retirement.

1 D. "Plan Administrator" means the Board of Retirement, Sacramento County
2 Employees' Retirement System, 980 9th Street, Suite 1900, Sacramento, CA 95814.

3 2. This Order is issued under the California Family Code and relates to the
4 division of the community property interest of the Participant and Alternate Payee in
5 benefits under the plan and payment to the Alternate Payee of his share of that
6 interest.

7 3. The total community share of the Participant and Alternative Payee portion of
8 the gross monthly retirement allowance shall be determined be a service fraction. The
9 numerator of the fraction shall be the number of years of credited service earned
10 between date of the marriage and the date of the separation. The denominator of the
11 fraction shall be the total number of years of credited service under the retirement plan
12 as of the effective date of the distribution. Alternate Payee shall be entitled to 50
13 percent of the community share which shall include cost-of-living increases or other
14 retirement adjustments. Any portion not designated as community is confirmed as the
15 sole and separate property of the Participant.

16 4. In the event Alternate Payee predeceases Participant, the Alternate Payees
17 share of the monthly benefit shall be paid henceforth to the named beneficiary of the
18 Alternate Payee.

19 5. All monthly benefit payments shall cease upon the death of the Participant.

20 6. The Alternate Payee will be responsible for and will include all amounts
21 received under this Order as gross taxable income.

22 7. Nothing in this Order may be construed to require the Plan or Plan
23 Administrator:

24 A. To provide to the Alternate Payee any type or form of benefit or any
25 option not otherwise available to the participant under the Plan;

26 B. To provide to the Alternate Payee increased benefits determined on the
27 basis of actuarial value not available to the Participant; or
28

1 C. To pay any benefits to the Alternate Payee that are required to be paid to
2 another alternate payee under another order.

3 8. Each party shall, upon receiving a request, perform any act reasonable
4 necessary to carry into effect the term of this order.

5 9. To the extent authorized by law, the Plan must be joined as a party in the
6 Dissolution by the Participant and Alternate Payee to allow the Court to enforce the
7 terms of the stipulation against the plan as well as against the Participant and to allow
8 the Plan to enforce the order.

9 The foregoing is agreed by and dates as follows:

10 Dated: _____
11 _____
12 Petitioner

12 Dated: _____
13 _____
14 Attorney for Petitioner

15 Dated: _____
16 _____
17 Respondent

17 Dated: _____
18 _____
19 Attorney for Respondent

20 Dated: _____
21 _____
22 Sacramento County Employees'
23 Retirement System Representative

23 ORDER

24 The Court hereby incorporates the foregoing as its Order herein and orders the parties
25 to comply herewith.

26 Dated: _____
27 JUDGE OF THE SUPERIOR COURT
28