

1 AN ACT in relation to public employee benefits.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Pension Code is amended by
5 changing Section 1-119 as follows:

6 (40 ILCS 5/1-119)

7 Sec. 1-119. Qualified Illinois Domestic Relations
8 Orders.

9 (a) For the purposes of this Section:

10 (1) "Alternate payee" means the spouse, former
11 spouse, child, or other dependent of a member, as
12 designated in a QILDRO.

13 (2) "Death benefit" means any nonperiodic benefit
14 payable upon the death of a member to a survivor of the
15 member or to the member's estate or designated
16 beneficiary, including any refund of contributions
17 following the member's death, whether or not the benefit
18 is so called under the applicable Article of this Code.

19 (3) "Disability benefit" means any periodic or
20 nonperiodic benefit payable to a disabled member based on
21 occupational or nonoccupational disability or disease,
22 including any periodic or nonperiodic increases in the
23 benefit, whether or not the benefit is so called under
24 the applicable Article of this Code.

25 (4) "Member" means any person who participates in
26 or has service credits in a retirement system, including
27 a person who is receiving or is eligible to receive a
28 retirement or disability benefit, without regard to
29 whether the person has withdrawn from service.

30 (5) "Member's refund" means a return of all or a
31 portion of a member's contributions that is elected by

1 the member (or provided by operation of law) and is
2 payable before the member's death.

3 (6) "Qualified Illinois Domestic Relations Order"
4 or "QILDRO" means an Illinois court order that creates or
5 recognizes the existence of an alternate payee's right to
6 receive all or a portion of a member's accrued benefits
7 in a retirement system, is issued pursuant to this
8 Section and Section 503(b)(2) of the Illinois Marriage
9 and Dissolution of Marriage Act, and meets the
10 requirements of this Section. A QILDRO is not the same
11 as a qualified domestic relations order or QDRO issued
12 pursuant to Section 414(p) of the Internal Revenue Code
13 of 1986. The requirements of paragraphs (2) and (3) of
14 that Section do not apply to orders issued under this
15 Section and shall not be deemed a guide to the
16 interpretation of this Section; a QILDRO is intended to
17 be a domestic relations order within the meaning of
18 paragraph (11) of that Section.

19 (7) "Regular payee" means the person to whom a
20 benefit would be payable in the absence of an effective
21 QILDRO.

22 (8) "Retirement benefit" means any periodic or
23 nonperiodic benefit payable to a retired member based on
24 age or service, or on the amounts accumulated to the
25 credit of the member for retirement purposes, including
26 any periodic or nonperiodic increases in the benefit,
27 whether or not the benefit is so called under the
28 applicable Article of this Code.

29 (9) "Retirement system" or "system" means any
30 retirement system, pension fund, or other public employee
31 retirement benefit plan that is maintained or established
32 under any of Articles 2 through 18 of this Code.

33 (10) "Surviving spouse" means the spouse of a
34 member at the time of the member's death.

1 (11) "Survivor's benefit" means any periodic
2 benefit payable to a surviving spouse, child, parent, or
3 other survivor of a deceased member, including any
4 periodic or nonperiodic increases in the benefit, whether
5 or not the benefit is so called under the applicable
6 Article of this Code.

7 (b) (1) An Illinois court of competent jurisdiction in a
8 proceeding for declaration of invalidity of marriage, legal
9 separation, or dissolution of marriage that provides for the
10 distribution of property, or any proceeding to amend or
11 enforce such a property distribution, may order that all or
12 any part of any (i) retirement benefit or (ii) member's
13 refund payable to or on behalf of the member be instead paid
14 by the retirement system to a designated alternate payee.

15 (2) An order issued under this Section provides only for
16 the diversion to an alternate payee of certain benefits
17 otherwise payable by the retirement system under the
18 provisions of this Code. The existence of a QILDRO shall not
19 cause the retirement system to pay any benefit, or any amount
20 of benefit, to an alternate payee that would not have been
21 payable by the system to a regular payee in the absence of
22 the QILDRO.

23 (3) A QILDRO shall not affect the vesting, accrual, or
24 amount of any benefit, nor the date or conditions upon which
25 any benefit becomes payable, nor the right of the member or
26 the member's survivors to make any election otherwise
27 authorized under this Code, except as provided in subsections
28 (i) and (j).

29 (4) A QILDRO shall not apply to or affect the payment of
30 any survivor's benefit, death benefit, disability benefit,
31 life insurance benefit, or health insurance benefit.

32 (c) (1) A QILDRO must contain the name, residence
33 address, and social security number of the member and of the
34 alternate payee and must identify the retirement system to

1 which it is directed and the court issuing the order.

2 (2) A QILDRO must specify each benefit to which it
3 applies, and it must specify the amount of the benefit, a
4 percentage of the benefit, or specific formula to be applied
5 to the member's benefit to be paid to the alternate payee as
6 provided in subsection (n). ~~7--which--in--the--case--of--a~~
7 ~~nonperiodic-benefit-shall-be-expressed-as--a--dollar--amount,~~
8 ~~and-in-the-case-of-a-periodic-benefit-shall-be-expressed-as-a~~
9 ~~dollar-amount-per-month.~~

10 (3) With respect to each benefit to which it applies, a
11 QILDRO must specify when the order will take effect. In the
12 case of a periodic benefit that is being paid at the time the
13 order is received, a QILDRO shall take effect immediately or
14 on a specified later date; if it takes effect immediately, it
15 shall become effective on the first benefit payment date
16 occurring at least 30 days after the order is received by the
17 retirement system. In the case of any other benefit, a
18 QILDRO shall take effect when the benefit becomes payable
19 unless some later date is indicated pursuant to subsection
20 (n). However, in no event shall a QILDRO apply to any
21 benefit paid by the retirement system before or within 30
22 days after the order is received. A retirement system may
23 adopt rules to prorate the amount of the first and final
24 periodic payments to an alternate payee.

25 (4) A QILDRO must also contain any provisions required
26 under subsection (n) or (p).

27 (d) (1) An order issued under this Section shall not be
28 implemented unless a certified copy of the order has been
29 filed with the retirement system. The system shall promptly
30 notify the member and the alternate payee by first class mail
31 of its receipt of the order.

32 (2) Neither the retirement system, nor its board, nor
33 any of its employees shall be liable to the member, the
34 regular payee, or any other person for any amount of a

1 benefit that is paid in good faith to an alternate payee in
2 accordance with a QILDRO.

3 (3) At the time the order is submitted to the retirement
4 system, it shall be accompanied by a nonrefundable \$50
5 processing fee payable to the retirement system, to be used
6 by the system to defer any administrative costs arising out
7 of the implementation of the QILDRO.

8 (e) (1) Each alternate payee is responsible for
9 maintaining a current residence address on file with the
10 retirement system. The retirement system shall have no duty
11 to attempt to locate any alternate payee by any means other
12 than sending written notice to the last known address of the
13 alternate payee on file with the system.

14 (2) In the event that the system cannot locate an
15 alternate payee when a benefit becomes payable, the system
16 shall hold the amount of the benefit payable to the alternate
17 payee and make payment to the alternate payee if he or she is
18 located within the following 180 days. If the alternate
19 payee has not been located within 180 days from the date the
20 benefit becomes payable, the system shall pay the benefit and
21 the amounts held to the regular payee. If the alternate
22 payee is subsequently located, the system shall thereupon
23 implement the QILDRO, but the interest of the alternate payee
24 in any amounts already paid to the regular payee shall be
25 extinguished. Amounts held under this subsection shall not
26 bear interest.

27 (f) (1) If the amount of a benefit that is specified in
28 a QILDRO for payment to an alternate payee exceeds the
29 actual amount of that benefit payable by the retirement
30 system, the excess shall be disregarded. The retirement
31 system shall have no liability to any alternate payee or any
32 other person for the disregarded amounts.

33 (2) In the event of multiple QILDROs against a member,
34 the retirement system shall honor all of the QILDROs to the

1 extent possible. However, if the total amount of a benefit
2 to be paid to alternate payees under all QILDROs in effect
3 against the member exceeds the actual amount of that benefit
4 payable by the system, the QILDROs shall be satisfied in the
5 order of their receipt by the system until the amount of the
6 benefit is exhausted, and shall not be adjusted pro rata.
7 Any amounts that cannot be paid due to exhaustion of the
8 benefit shall remain unpaid, and the retirement system shall
9 have no liability to any alternate payee or any other person
10 for such amounts.

11 (3) A modification of a QILDRO shall be filed with the
12 retirement system in the same manner as a new QILDRO. A
13 modification that does not increase the amount of any benefit
14 payable to the alternate payee, and does not expand the
15 QILDRO to affect any benefit not affected by the unmodified
16 QILDRO, does not affect the priority of payment under
17 subdivision (f)(2); the priority of payment of a QILDRO that
18 has been modified to increase the amount of any benefit
19 payable to the alternate payee, or to expand the QILDRO to
20 affect a benefit not affected by the unmodified QILDRO, shall
21 be based on the date on which the system receives the
22 modification of the QILDRO.

23 (g) (1) Upon the death of the alternate payee under a
24 QILDRO, the QILDRO shall expire and cease to be effective,
25 and in the absence of another QILDRO, the right to receive
26 any affected benefit shall revert to the regular payee.

27 (2) All QILDROs relating to a member's participation in
28 a particular retirement system shall expire and cease to be
29 effective upon the issuance of a member's refund that
30 terminates the member's participation in that retirement
31 system, without regard to whether the refund was paid to the
32 member or to an alternate payee under a QILDRO. An expired
33 QILDRO shall not be automatically revived by any subsequent
34 return by the member to service under that retirement system.

1 (h) (1) Within 45 days after receiving a request
2 ~~subpoena~~ from any party to a proceeding for declaration of
3 invalidity of marriage, legal separation, or dissolution of
4 marriage in which a QILDRO may be issued, ~~or after receiving~~
5 ~~a request from the member,~~ a retirement system shall issue a
6 statement of a member's accumulated contributions, accrued
7 benefits, and other interests, including any and all
8 information available to the member, in the plan administered
9 by the retirement system based on the data on file with the
10 system on the date the request subpoena is received. Also
11 within 45 days after receiving a request, a retirement system
12 shall issue a statement, and of any procedures and rules
13 related to the processing and approval of QILDROs and of any
14 modifications relevant ~~procedures, rules, or modifications~~ to
15 the model QILDRO form that have been adopted by the
16 retirement system.

17 (2) In no event shall the retirement system be required
18 to furnish to any person an actuarial opinion as to the
19 present value of the member's benefits or other interests.

20 (3) The papers, entries, and records, or parts thereof,
21 of any retirement system may be proved by a copy thereof,
22 certified under the signature of the secretary of the system
23 or other duly appointed keeper of the records of the system
24 and the corporate seal, if any.

25 (i) In a retirement system in which a member or
26 beneficiary is required to apply to the system for payment of
27 a benefit, the required application may be made by an
28 alternate payee who is entitled to all or part of that
29 benefit under a QILDRO, provided that all other
30 qualifications and requirements have been met. However, the
31 alternate payee may not make the required application for a
32 member's refund or a retirement benefit if the member is in
33 active service or below the minimum age for receiving an
34 undiscounted retirement annuity in the retirement system that

1 has received the QILDRO or in any other retirement system in
2 which the member has creditable service and in which the
3 member's rights under the Retirement Systems Reciprocal Act
4 would be affected as a result of the alternate payee's
5 application for a member's refund or retirement benefit.

6 (j) (1) So long as there is in effect a QILDRO relating
7 to a member's retirement benefit, the affected member may not
8 elect a form of payment that has the effect of diminishing
9 the amount of the payment to which any alternate payee is
10 entitled, unless the alternate payee has consented to the
11 election in a writing with a notarized signature, and this
12 written and notarized consent has been filed with the
13 retirement system.

14 (2) If a member attempts to make an election prohibited
15 under subdivision (j)(1), the retirement system shall reject
16 the election and advise the member of the need to obtain the
17 alternate payee's consent.

18 (3) If a retirement system discovers that it has
19 mistakenly allowed an election prohibited under subdivision
20 (j)(1), it shall thereupon disallow that election and
21 recalculate any benefits affected thereby. If the system
22 determines that an amount paid to a regular payee should have
23 been paid to an alternate payee, the system shall, if
24 possible, recoup the amounts as provided in subsection (k) of
25 this Section.

26 (k) In the event that a regular payee or an alternate
27 payee is overpaid, the retirement system shall recoup the
28 amounts by deducting the overpayment from future payments and
29 making payment to the other payee. The system may make
30 deductions for recoupment over a period of time in the same
31 manner as is provided by law or rule for the recoupment of
32 other amounts incorrectly disbursed by the system in
33 instances not involving a QILDRO. The retirement system
34 shall incur no liability to either the alternate payee or the

1 regular payee as a result of any payment made in good faith,
2 regardless of whether the system is able to accomplish
3 recoupment.

4 (1) (1) A retirement system that has, before the
5 effective date of this Section, received and implemented a
6 domestic relations order that directs payment of a benefit to
7 a person other than the regular payee may continue to
8 implement that order, and shall not be liable to the regular
9 payee for any amounts paid in good faith to that other person
10 in accordance with the order.

11 (2) A domestic relations order directing payment of a
12 benefit to a person other than the regular payee that was
13 issued by a court but not implemented by a retirement system
14 prior to the effective date of this Section shall be void.
15 However, a person who is the beneficiary or alternate payee
16 of a domestic relations order that is rendered void under
17 this subsection may petition the court that issued the order
18 for an amended order that complies with this Section.

19 (m) (1) In accordance with Article XIII, Section 5 of
20 the Illinois Constitution, which prohibits the impairment or
21 diminishment of benefits granted under this Code, a QILDRO
22 issued against a member of a retirement system established
23 under an Article of this Code that exempts the payment of
24 benefits or refunds from attachment, garnishment, judgment or
25 other legal process shall not be effective without the
26 written consent of the member if the member began
27 participating in the retirement system on or before the
28 effective date of this Section. That consent must specify
29 the retirement system, the court case number, and the names
30 and social security numbers of the member and the alternate
31 payee. The consent must accompany the QILDRO when it is
32 filed with the retirement system, and must be in
33 substantially the following form:

34 CONSENT TO ISSUANCE OF QILDRO

1 Court Case Number:

2 Member's Social Security Number:

3 Alternate payee's Social Security Number:

4 I, (name), a member of the (retirement system), hereby

5 consent to the issuance of a Qualified Illinois Domestic

6 Relations Order. I understand that under the Order, certain

7 benefits that would otherwise be payable to me, or to my

8 surviving spouse or estate, will instead be payable to (name

9 of alternate payee). I also understand that my right to

10 elect certain forms of payment of my retirement benefit or

11 member's refund may be limited as a result of the Order.

12 DATED:.....

13 SIGNED:.....

14 (2) A member's consent to the issuance of a QILDRO shall

15 be irrevocable, and shall apply to any QILDRO that pertains

16 to the alternate payee and retirement system named in the

17 consent.

18 (n) An order issued under this Section shall be in

19 substantially the following form (omitting any provisions

20 that are not applicable):

21 QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDER

22 THIS CAUSE coming before the Court for the purpose of the

23 entry of a Qualified Illinois Domestic Relations Order under

24 the provisions of Section 1-119 of the Illinois Pension Code,

25 the Court having jurisdiction over the parties and the

26 subject matter hereof; the Court finding that one of the

27 parties to this proceeding is a member of a retirement system

28 subject to Section 1-119 of the Illinois Pension Code, this

29 Order is entered to implement a division of that party's

30 interest in the retirement system; and the Court being fully

31 advised;

32 IT IS HEREBY ORDERED AS FOLLOWS:

33 (1) The definitions and other provisions of Section

1 1-119 of the Illinois Pension Code are adopted by reference
2 and made a part of this Order.

3 (2) Identification of Retirement System and parties:

4 Retirement System: (name and address)

5 Member: (name, residence address and social security
6 number)

7 Alternate payee: (name, residence address and social
8 security number)

9 (3) The Retirement System shall pay the indicated
10 amounts of the following specified benefits to the alternate
11 payee under the following terms and conditions:

12 (i) Of the member's retirement benefit, the
13 Retirement System shall pay to the alternate payee:

14 (I) \$ per month; or

15 (II)% per month of the member's retirement
16 benefit with the benefit to be calculated as of the date
17 of; or

18 (III)% per month of the member's retirement
19 benefit with the benefit to be calculated as of the date
20 the member's retirement benefit commences; or

21 (IV) the amount resulting from calculating the
22 formula:

23 (A/B) x C x D where:

24 "A" equals the number of months the member was
25 married while the member was in the retirement
26 system (with that number of months to be provided by
27 the parties or the court), and

28 "B" equals the total number of months the
29 member was in the retirement system through the
30 member's retirement date (with that number of months
31 to be provided by the retirement system), and

32 "C" equals a number less than or equal to 1
33 (with that number to be provided by the parties or
34 the court and representing the alternate payee's

1 share of the marital portion of the benefit), and
 2 "D" equals the amount of the member's
 3 retirement benefit as of the date the member
 4 commences that benefit (with that amount to be
 5 provided by the retirement system); or

6 (V) the amount resulting from calculating the
 7 formula:

8 (A/B) x C x D where:

9 "A" equals the number of months the member was
 10 married while the member was in the retirement
 11 system (with that number to be provided by the
 12 parties or the court), and

13 "B" equals the total number of months the
 14 member was in the retirement system until the date
 15 the alternate payee's benefit commences (with that
 16 number to be provided by the retirement system), and

17 "C" equals a number less than or equal to 1
 18 (with that number to be provided by the parties or
 19 the court and representing the alternate payee's
 20 share of the marital portion of the benefit), and

21 "D" equals the amount of the member's
 22 retirement benefit as of the date of
 23 (with that date to be provided by the parties or the
 24 court and that amount to be provided by the
 25 retirement system).

26 \$:~::~:--per-month,--beginning
 27 (if--the--benefit--is--already--being--paid,--either
 28 immediately--or--on--a--specified--later--date;--otherwise,
 29 on--the--date--the--retirement--benefit--commences),--and
 30 ending---upon---the---termination---of---the---retirement
 31 benefit--or--the--death--of--the--alternate---payee,
 32 whichever--occurs--first.

32 (ii) Of--any--member's--refund--that--becomes--payable,
 33 the--Retirement--System--shall--pay--to--the--alternate--payee
 34 \$:~::~:--when--the--member's--refund--becomes--payable. If the

1 retirement benefit is subject to annual cost of living
 2 increases and the alternate payee's share of that benefit
 3 is calculated under subdivision (n)(i)(III) or (n)(i)(IV)
 4 or (n)(i)(V), the benefit shall be recalculated annually
 5 to include a proportionate share of the applicable cost
 6 of living increases.

7 (iii) If the member's retirement benefit has
 8 already commenced, the alternate payee's benefit shall
 9 commence either:

10 (a) immediately upon this order being approved by
 11 the Retirement System; or

12 (b) on the date of

13 (iv) If the member's retirement benefit has not yet
 14 commenced, the alternate payee's benefit shall commence
 15 either:

16 (a) as of the date the member's retirement benefit
 17 commences; or

18 (b) on the date of

19 (v) The alternate payee's benefit shall terminate
 20 upon the termination of the member's retirement benefit
 21 or the death of the alternate payee, whichever occurs
 22 first.

23 (vi) Of any member's refund that becomes payable,
 24 when the benefit becomes payable, the Retirement System
 25 shall pay to the alternate payee either:

26 (I) \$.....; or

27 (II)% of the member's refund with the
 28 refund to be calculated as of the date of; or

29 (III)% of the member's refund with the
 30 refund to be calculated as of the date the alternate
 31 payee's refund is paid; or

32 (IV) the amount resulting from calculating the
 33 formula:

34 (A/B) x C x D where:

1 "A" equals the number of months the member was
2 married while the member was in the retirement
3 system (with that number to be provided by the
4 parties or the court), and

5 "B" equals the total number of months the
6 member was in the retirement system through the
7 member's retirement date (with that number to be
8 provided by the retirement system), and

9 "C" equals a number less than or equal to 1
10 (with that number to be provided by the parties or
11 the court and representing the alternate payee's
12 share of the marital portion of the member's
13 refund), and

14 "D" equals the amount of the member's refund
15 as of the date the member will receive that refund
16 (with that amount to be provided by the retirement
17 system); or

18 (V) the amount resulting from calculating the
19 formula:

20 (A/B) x C x D where:

21 "A" equals the number of months the member was
22 married while the member was in the retirement
23 system (with that number to be provided by the
24 parties or the court); and

25 "B" equals the total number of months the
26 member was in the retirement system through the date
27 the alternate payee's benefit is paid (with that
28 number to be provided by the retirement system); and

29 "C" equals a number less than or equal to 1
30 (with that number to be provided by the parties or
31 the court and representing the alternate payee's
32 share of the marital portion of the member's
33 refund); and

34 "D" equals the amount of the member's refund

as of the date of (with that date to be provided by the parties or the court, and that amount to be provided by the retirement system).

(4) In accordance with subsection (j) of Section 1-119 of the Illinois Pension Code, so long as this QILDRO is in effect, the member may not elect a form of payment of the retirement benefit that has the effect of diminishing the amount of the payment to which the alternate payee is entitled, unless the alternate payee has consented to the election in writing, the consent has been notarized, and this consent has been filed with the retirement system.

(5) If the member began participating in the Retirement System before the effective date of this Section, this Order shall not take effect unless accompanied by the written consent of the member as required under subsection (m) of Section 1-119 of the Illinois Pension Code.

(6) The Court retains jurisdiction to modify this Order.

DATED:.....

SIGNED:.....

(o) (1) A court in Illinois that has issued a QILDRO shall retain jurisdiction of all issues relating to the modification of the QILDRO. The Administrative Review Law and the rules adopted pursuant thereto shall govern and apply to all proceedings for judicial review of final administrative decisions of the board of trustees of the retirement system arising under this Section.

(2) The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. The venue for review under the Administrative Review Law shall be the same as is provided by law for judicial review of other administrative decisions of the retirement system.

(p) (1) Each retirement system may adopt any procedures or rules that it deems necessary or useful for the

1 implementation of this Section.

2 (2) Each retirement system may by rule modify the model
3 QILDRO form provided in subsection (n), except that no
4 retirement system may change or delete any part of
5 subsections (i) through (vi) of subsection (n). Each
6 retirement system may by rule or require that additional
7 relevant information be included in QILDROs presented to the
8 system, as may be necessary to meet the needs of the
9 retirement system.

10 (Source: P.A. 90-731, eff. 7-1-99.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.