

HOUSE BILL No. 5682

May 29, 2012, Introduced by Reps. Heise, Meadows, Horn, Constan, Lipton, Irwin and Cavanagh and referred to the Committee on Judiciary.

A bill to amend 1991 PA 46, entitled
"Eligible domestic relations order act,"
by amending section 2 (MCL 38.1702), as amended by 2008 PA 348.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Alternate payee" means a spouse of a participant under a
3 judgment of separate maintenance, or a former spouse, child, or
4 dependent of a participant, who is named in an eligible domestic
5 relations order.

6 (b) "Benefit" means an annuity, a pension, a retirement
7 allowance, or an optional benefit accrued or accruing to a
8 participant under a retirement system or a postretirement subsidy
9 payable to a participant under a retirement system.

1 (c) "Domestic relations order" means a judgment, decree, or
2 order of a court made ~~pursuant~~**ACCORDING** to the domestic relations
3 law of this state and relating to the provision of alimony
4 payments, child support, or marital property rights to a spouse of
5 a participant under a judgment of separate maintenance, or to a
6 former spouse, child, or dependent of a participant.

7 (d) "Earliest retirement date" means the earliest date on
8 which a participant meets all of the requirements for retirement
9 under a retirement system except for termination of employment.

10 (e) "Eligible domestic relations order" or "EDRO" means a
11 domestic relations order that is considered an eligible domestic
12 relations order under section 11 or that meets all of the following
13 requirements:

14 (i) The domestic relations order states the names and last
15 known addresses of the participant and alternate payee.

16 (ii) The domestic relations order refers to the attachment to
17 the domestic relations order described in subparagraph (ix).

18 (iii) The domestic relations order states the amount or
19 percentage of the benefit to be paid to an alternate payee, or the
20 manner under which the retirement system is to determine the amount
21 or percentage of the benefit to be paid to an alternate payee.

22 (iv) The domestic relations order states that it applies to the
23 retirement system and that the retirement system shall make
24 payments to the alternate payee as required under the eligible
25 domestic relations order and this act.

26 (v) The domestic relations order does not require the
27 retirement system to provide a type or form of benefit not provided

1 by the retirement system or a form of payment not provided by this
2 act.

3 (vi) The domestic relations order does not require the
4 retirement system to provide an increased benefit determined on the
5 basis of actuarial value.

6 (vii) The domestic relations order does not require the payment
7 of a benefit to an alternate payee that is required to be paid to
8 another alternate payee under a previously filed eligible domestic
9 relations order.

10 (viii) The domestic relations order is filed before the
11 participant's retirement allowance effective date. **IF THAT DOMESTIC**
12 **RELATIONS ORDER IS FILED BEFORE THE PARTICIPANT'S RETIREMENT**
13 **ALLOWANCE EFFECTIVE DATE, BUT THE RETIREMENT SYSTEM DETERMINES THAT**
14 **THE DOMESTIC RELATIONS ORDER FAILS TO QUALIFY AS AN EDRO, THERE IS**
15 **A 60-DAY PERIOD FROM THE DATE THE RETIREMENT SYSTEM NOTIFIES THE**
16 **PARTIES THAT THE ORDER FAILS TO QUALIFY. DURING THAT 60-DAY PERIOD,**
17 **THE PARTICIPANT'S RETIREMENT ALLOWANCE EFFECTIVE DATE SHALL NOT**
18 **OCCUR SO THAT THE PARTIES MAY FILE AN AMENDED DOMESTIC RELATIONS**
19 **ORDER THAT WILL QUALIFY AS AN EDRO. THE 60-DAY PERIOD DOES NOT**
20 **LIMIT THE PARTIES FROM FILING AN EDRO AT ANY TIME BEFORE THE**
21 **PARTICIPANT'S RETIREMENT EFFECTIVE DATE.**

22 (ix) The domestic relations order requires that the social
23 security numbers of the participant and the alternate payee be sent
24 to the retirement system in an attachment to the order. The
25 attachment shall not be filed with the court, but shall be attached
26 to the domestic relations order when it is sent to the plan
27 administrator for approval.

1 (f) "Participant" means a member, deferred member, vested
2 former member, deceased former member, or retirant under the
3 retirement system.

4 (g) "Postretirement subsidy" includes, but is not limited to,
5 all of the following:

6 (i) A supplemental annuity.

7 (ii) A supplemental payment to a participant.

8 (iii) A percentage increase to a benefit payable to a
9 participant.

10 (iv) Any other payment to a participant or increase to a
11 benefit payable to a participant, excluding health benefits.

12 (h) "Retirement system" means a public employee retirement
13 system created and established by this state or any political
14 subdivision of this state.