Kentucky Retirement Systems
Perimeter Park West •1260 Louisville Rd. • Frankfort KY 40601-6124
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QUALIFIED DOMESTIC RELATIONS ORDERS

The following information is provided to assist active and retired members who are going through a divorce and whose retirement account might be subject to division as marital property or withholding for child support or alimony/maintenance. ***All members are strongly advised to seek financial, legal, or other expert advice. Kentucky Retirement Systems is not rendering legal, financial, or any other type of professional advice in this booklet and nothing in this booklet should be construed as providing legal, financial, or any other type of professional advice.*** Kentucky Retirement Systems cannot make a determination whether or not an active or retired member's retirement account is marital property, if any part of the retirement account is marital property, if the retirement account should be divided, or how the retirement account should be divided.

NECESSARY INFORMATION

In order to properly make a determination about the status of a retirement account as marital property it is absolutely essential that the Court, the attorneys, and the parties to the dissolution of marriage action understand how retirement benefits are determined. Information can be found on Kentucky Retirement Systems' website, kyret.ky.gov. The Summary Plan Description found at http://kyret.ky.gov/archive/publications/Sumpln.pdf provides detailed information regarding Kentucky Retirement Systems' benefits. For members whose membership began on or after September 1, 2008, the Guide to House Bill 1 provides essential information regarding the changes made by the General Assembly in 2008.
http://kyret.ky.gov/archive/Employers/2008_session_changes_employers.pdf.

Kentucky Employees Retirement System (KERS), County Employees Retirement System (CERS), and State Police Retirement System (SPRS) are governmental qualified defined benefit plans created pursuant to Section 401(a) of the Internal Revenue Code. This means that the retirement benefit paid to a retired member is based on a formula consisting of the retired member's final compensation, service credit, and a factor set by statute. This is different from a defined contribution plan such as a 401k or an IRA in which the retiree is only eligible to receive his/her contributions and investment earnings. There is absolutely no correlation between the amount of contributions made by the member and the retirement benefits to which the member may be eligible to receive at the time of retirement.

There are three modes of retirement -- normal, early, or disability.

Early retirement -- A member who retires under early retirement will receive a reduced benefit, meaning that his/her benefit is reduced to reflect the earlier commencement of benefits.

Normal retirement -- A member who retires under normal retirement will receive an unreduced benefit, meaning that there is no reduction in the benefit as there is for early retirement.

Disability retirement --A member may apply for disability retirement benefits, which are enhanced benefits provided to bridge the gap between the time a member becomes disabled pursuant to KRS 61.600 and the member's normal retirement.

The Participant is still required to submit a copy of the divorce decree even if the Participant submits a QDRO.

INSTRUCTIONS FOR COMPLETION OF THE FORM 6434
Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property

The printed language on the Form 6434, "Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property" (QDRO) cannot be altered. The QDRO will be rejected by Kentucky Retirement Systems if the printed language is altered in any manner. (See KRS 61.690 and 105 KAR 1:190).

Kentucky Retirement Systems cannot make a determination of the status of a Participant's retirement account as marital property. Kentucky Retirement Systems can only inform the Court of the amount of service earned and purchased during the marriage (marital service). The Court must decide what is marital property and how the marital property is to be divided.

This form will be used if the Participant has not yet retired. Because the Participant has not yet retired there are three distinct types of payment the Participant can receive from the retirement systems. Consequently, the QDRO must provide for each possible payment scenario because it is unknown what the Participant will do in the future.

1) If the Participant terminates his/her employment and is not eligible for retirement, he/she can apply for and receive a refund of his/her contributions and interest pursuant to KRS 61.625. This is a lump sum payment. If the Participant takes a refund of his/her contributions and interest the Participant's membership in the retirement systems is terminated and he/she is no longer eligible for future retirement benefits.

2) When the Participant retires he/she can elect a payment option from those provided in KRS 61.595 or KRS 61.635. All of the payment options provide for a monthly retirement benefit except for KRS 61.635(11). A Participant who retires under hazardous coverage may elect the 10 year certain payment option which provides for only 120 months of payments. (See KRS 16.576).

3) The Participant can select the actuarial refund payment option pursuant to KRS 61.635(11). Under this payment option the Participant will receive a one-time lump sum payment that is the actuarial equivalent of the amount payable for a sixty month time period pursuant to KRS 61.595(1) or the Participant can take a refund of his/her contributions and interest if that is more than the actuarial refund.

The Participant is required to submit a Form 6433, "Authorization for Release of Information and Request for Information for a Qualified Domestic Relations Order" to obtain information about the amount of the basic monthly retirement benefit (simple life annuity), the actuarial refund, and refund of contributions and interest based on the marital service and compensation as of the effective date of the divorce. This information will provide the Court the information necessary for it to make a determination regarding the division of marital property in this situation where the Participant has not yet retired.

SECTION BY SECTION INSTRUCTIONS

These instructions will only cover sections that require completion by the Court.

Section 2. The Court must enter the Participant's name, the Participant's Kentucky Retirement Systems' member identification number, and current mailing address.

Section 3. The Court must enter the Alternate Payee's name and current mailing address.

Section 4. The Court must mark all retirement systems to which this order applies. If a Participant has service credit in multiple retirement systems, the Court should mark only the systems affected by the QDRO in which service was earned or purchased during the marriage.

Section 5. The Court must enter the date of the marriage that is the subject of this divorce action.

Section 6. The Court must enter the date of the dissolution of the marriage that is the subject of this divorce action.

Section 8. Payment Options. There are three options for division of the retirement account. The Court can only choose one payment option.

(Option A). The first payment option allows the Court to determine a specific dollar amount to be paid to the Alternate Payee. Under this option the Court shall designate a specific dollar amount be withheld from the monthly payment, a refund of contributions and interest, and from the actuarial refund. For example, the Participant's projected basic monthly retirement benefit (life annuity) is $1,000.00 per month, the Participant's projected actuarial refund amount is $30,000, and the Participant's contributions and interest is $10,000, the Court could order:

X A. Dollar Amount:
If the Participant elects a plan of payment that consists of either an actuarial refund or lump sum payment, a lump sum refund of contributions and interest, or a plan of payment that consists of monthly retirement benefits the retirement systems(s) shall withhold and pay to the Alternate Payee:

$200.00 per month from the Participant's monthly retirement benefit;

$10,000.00 from the Participant's actuarial refund or lump sum payment;

$3,000.00 from the Participant's lump sum refund of contributions and interest payment;

(Option B). The second payment option establishes the Alternate Payee's payment as a percentage that is based on the marital service as provided by the Court which will be calculated at the time of the Participant's retirement or request for a refund of contributions and interest.

For example:
Fred and Sue were married for 162 months. Fred had 60 months of service accrued in CERS prior to marriage. Fred continues to earn service credit after he and Sue divorce. The Court would complete B as follows:

X B. Percentage calculated pursuant to 105 KAR 1:190 Section 10(1)(b):

If the Participant elects a plan of payment that consists of either an actuarial refund or lump sum refund, a lump sum refund of contributions and interest, or a plan of payment that consists of monthly retirement benefits, the retirement system(s) shall pay directly to the Alternate Payee per monthly retirement benefit or in a one-time actuarial refund payment or lump sum payment or in a lump sum refund of contributions and interest the percentage to be determined pursuant to 105 KAR 1:190 as set forth below:

Fraction:
i. The numerator of the fraction shall be the number of months during which the Participant was both a contributing member of the retirement systems affected by the QDRO and married to the Alternate Payee, including service purchased during the marriage. The retirement systems shall utilize the marital period as provided by the Court in the QDRO.

ii. The denominator, which shall be determined by the retirement systems(s) at the time that the Participant elects to take a monthly retirement benefit, an actuarial or lump sum refund, or a lump sum refund of contributions and interest shall be the Participant's total months of service credit with the retirement systems(s).

iii. The resulting fraction shall be converted to a percentage which will be divided by 2.

When Fred accrues a total of 324 months of service credit he submits his notification of retirement. The retirement systems will calculate the percentage as follows:

162 (months of service earned during the marriage)
324 (total months of service credit at the time of retirement) = 50%

The retirement system will then divide 50% by 2 = 25%

Sue will be paid 25% of Fred's basic retirement allowance (life annuity), actuarial refund or lump sum payment, or lump sum refund of contributions and interest.

PLEASE NOTE: Under this option, Sue will receive 25% of Fred's basic monthly retirement allowance payment, **not** of the payment option he selects at retirement (unless he selects the actuarial refund payment option). If Fred's basic monthly retirement allowance payment would be $200.00 per month, but he selects the Survivorship 100% payment option which will only pay him $150.00 per month Sue will still be paid $50.00 per month.

(Option C). The third option allows the Court to set a percentage that may or may not be based on the marital service. The percentage set by the Court pursuant to this option shall be calculated based upon the Participant's basic monthly payment option at the time of retirement.

For example:
The Court awards Sue 40% of Fred's retirement account whether he selects a monthly retirement payment, actuarial refund, or lump sum payment. The Court would complete Option C as follows:

> X C Alternative percentage designation pursuant to 105 KAR 1:190 Section 10(3)
> The Retirement System(s) shall, at the time the Participant retires, pay to the Alternate Payee 40% of the Participant's basic monthly retirement allowance pursuant to KRS 61.595, or the Participant's actuarial or lump sum refund, or refund of contributions and interest.

Section 9. In this section the Court shall order the time period the payments under the QDRO shall be made if the Participant selects a retirement payment option that pays a monthly retirement benefit. The Court shall choose whether to limit the payments to a certain number of months or until the Participant's or Alternate Payee's death, whichever comes first.

Section 10. The Court must decide how the cost of living increase provided in KRS 61.691 is to be divided if the Court ordered that the Alternate Payee be paid a specific dollar amount under Section 8, Option A. The cost-of-living adjustment is made in July unless the General Assembly takes action to stop the cost-of-living adjustment. The Court may order that all of the cost-of-living adjustment be applied to the Participant's monthly retirement allowance or that it be divided as provided in KRS 61.690(9).

Section 11. The Court must also decide how the administrative fee for filing the QDRO is to be paid. The Court may order that the fee be paid entirely by the Participant, entirely by the Alternate Payee, or divided equally between the parties. NOTE: The Retirement Systems can only accept one check for the fee so the parties will need to determine who will submit the check with the QDRO. The fees are $50.00 for the original QDRO and $25.00 for an amended QDRO. **Any QDRO that comes in without an attached certified check or money order payable to the Kentucky State Treasurer for the administrative fee cannot be reviewed by Kentucky Retirement Systems.**

Kentucky Retirement Systems

Form 6434
Revised 05/2011

This Order is: ☐ New ☐ Corrected ☐ Amended ☐ Corrected Amended

COMMONWEALTH OF KENTUCKY

_____ Family/Circuit Court

Division _____

Civil Action No. _____ -CI- _____

PETITIONER

_____
Name

vs.

RESPONDENT

_____
Name

PRE-RETIREMENT QUALIFIED DOMESTIC RELATIONS ORDER FOR DIVISION OF MARITAL PROPERTY

The Court finds the following facts and issues the following Order pursuant to KRS 403.190, KRS 61.690, and 105 KAR 1:190:

1. This Order is intended to comply with and be administered and interpreted in conformity with 26 U.S.C. Sections 401(a) and 414(p), KRS 61.690, and KRS Chapter 403.

2. The following information is provided for the Participant:

Name: _____

Kentucky Retirement Systems' Member ID: _____

Current Mailing Address: _____

_____

_____
City, State, Zip Code

3. The following information is provided for the Alternate Payee:

Name: _____

Current Mailing Address: _____

_____

_____
City, State, Zip Code

4. The "Retirement System(s)" affected by the Order are (check the box below for each retirement system to which this Order applies):

☐ **State Police Retirement System**
1260 Louisville Road
Frankfort, Kentucky 40601

☐ **County Employees Retirement System**
1260 Louisville Road
Frankfort, Kentucky 40601

☐ **Kentucky Employees Retirement System**
1260 Louisville Road
Frankfort, Kentucky 40601

5. The date of the marriage is _____.

6. The date that the dissolution of the marriage was entered is _____.

7. **Obligation of Participant and Alternate Payee:** The Participant and the Alternate Payee are ordered to notify the Retirement System(s) in writing of a change in the individual's mailing address. The Retirement System(s) shall not be responsible for any failure of communication or receipt of payment caused by the failure of the Participant or the Alternate Payee to provide a current mailing address. The Retirement System(s) is under no statutory or regulatory duty to attempt to find any party who does not inform the Retirement System(s) of his/her current address and shall not attempt to locate any party who does not inform the Retirement System(s) of his/her current address.

8. **Amount Payable to the Alternate Payee:** Upon the Participant receiving a payment from the Retirement System(s), the Court orders that the Retirement System(s) shall, in accordance with KRS 61.690 and 105 KAR 1:190, withhold and pay to the Alternate Payee the following: ***[Designate only one option (A, B or C)]***

☐ OPTION A - DOLLAR AMOUNT PURSUANT TO 105 KAR 1:190 SECTION 10(1):

If the Participant elects (1) a plan of payment that consists of monthly retirement benefits, (2) an actuarial refund or lump sum payment, or (3) a lump sum refund of contributions and interest, the Retirement System(s) shall withhold and pay to the Alternate Payee:

$ _____ per month from the Participant's monthly retirement benefit;

$ _____from the Participant's actuarial refund or lump sum payment;

$ _____from the Participant's lump sum refund of contributions and interest payment;

OR

☐ OPTION B - PERCENTAGE CALCULATED PURSUANT TO 105 KAR 1:190 SECTION 10(2):

If the Participant elects (1) a plan of payment that consists of monthly retirement benefits, (2) an actuarial refund or lump sum refund, or (3) a lump sum refund of contributions and interest, the Retirement System(s) shall pay directly to the Alternate Payee per monthly retirement benefit or in a one-time actuarial refund payment or lump sum payment or in a lump sum refund of contributions and interest the percentage to be determined pursuant to 105 KAR 1:190 as set forth below:

Fraction:

i. The numerator of the fraction shall be the number of months during which the participant was both a contributing member of the retirement systems affected by the QDRO and married to the alternate payee, including service purchased during the marriage. The retirement systems shall utilize the marital period as provided by the Court in the QDRO.

ii. The denominator, which shall be determined by the Retirement System(s) at the time that the Participant elects to take a monthly retirement benefit, an actuarial or lump sum refund, or a lump sum refund of contributions and interest shall be the Participant's total months of service credit with the Retirement System(s).

iii. The resulting fraction shall be converted to a percentage which will be divided by 2.

OR

☐ OPTION C - ALTERNATIVE PERCENTAGE DESIGNATION PURSUANT TO 105 KAR 1:190 SECTION 10(3):

The Retirement System(s) shall, at the time the Participant retires, pay to the Alternate Payee _____% of the Participant's basic monthly retirement allowance pursuant to KRS 61.595, or the Participant's actuarial or lump sum refund, or refund of contributions and interest.

9. If the Participant selects a retirement payment option that provides for a monthly retirement benefit, the Retirement System(s) shall withhold the dollar amount or percentage provided in Section 8 of this Order: *(Select one option below)*

☐ for a time period of _____months, subject to the provisions of KRS 61.690.

OR

☐ until the Participant's or the Alternate Payee's death, whichever comes first.

10. Any cost of living increase provided in KRS 61.691 shall be administered as follows:
(Do not complete this item if the Participant has been ordered to pay the Alternate Payee a percentage of his/her monthly retirement benefit.)

☐ All to the Participant.

OR

☐ Divided between the Participant and the Alternate Payee pursuant to KRS 61.690(9).

11. The payment of the administrative fee provided for in KRS 61.690(10) and in 105 KAR 1:190 Sections 5 and 7 shall be paid as follows:

☐ All to be paid by the Participant.

OR

☐ All to be paid by the Alternate Payee.

OR

☐ Equally shared between the Participant and the Alternate Payee.

12. This Order applies to payments to be made after the approval of the Order for enforcement by the Retirement System(s) under KRS 61.690 and 105 KAR 1:190.

13. The Retirement System(s) shall notify the Alternate Payee by U. S. Mail sent to the Alternate Payee's last known mailing address on file at the Retirement Systems(s) when the Participant files a Notification of Retirement or an Application for a Refund of Contributions and Interest.

14. This Order does not require the Participant to select a particular retirement payment option or terminate his/her membership.

15. The Participant is ordered to notify the Retirement System(s) of the death of the Alternate Payee.

16. The Retirement System(s) shall not be liable to the Participant for payments made to the Alternate Payee after the Alternate Payee's death or for other payments made to the Alternate Payee to which the Alternate Payee was not entitled.

17. The Alternate Payee is ordered to immediately return any payments made pursuant to this Order that are received by the Alternate Payee after the death of the Participant.

18. The terms of this Order can only be amended or terminated by subsequent order of this Court.

19. As provided by KRS 61.690, the Alternate Payee's right to payment under this Order is conditional on the Participant's right to a monthly retirement benefit payment, an actuarial or lump sum refund, or a lump sum refund of contributions and interest from the Retirement System(s);

20. If the Participant's monthly retirement benefit payment, actuarial or lump sum refund, or lump sum refund of contributions and interest from the Retirement System(s) is subject to more than one Order under KRS 61.690 the amount paid to the Alternate Payee under this Order may be reduced based on the priority of the other Orders;

21. The Alternate Payee's right to receive an amount from the Participant's monthly retirement benefit payment, an actuarial or lump sum refund, or a lump sum refund of contributions and interest shall terminate upon:

a. The death of the Participant; or
b. The death of the Alternate Payee; or
c. The termination of a benefit paid to the Participant; or
d. Subsequent Order of the Court terminating the Alternate Payee's rights.

22. Payments under this Order shall commence as provided by KRS 61.690.

23. As provided in KRS 61.690(4)(a), this Order does not and shall not be construed to require the Retirement System(s) to take any action not authorized under state or federal law.

24. As provided in KRS 61.690(4)(b), this Order does not and shall not be construed to require the Retirement System(s) to provide any benefit, allowance, or other payment not authorized under state or federal law.

25. As provided in KRS 61.690(4)(c) and (d), this Order does not and shall not be construed to grant the Alternate Payee any separate right, title, interest, or to any retirement benefit other than to the payment from the Participant's account provided under this Order.

SO ORDERED this ____ day of _____, 20 _____ .

_____

Judge _____ Family/Circuit Court, Div. _____

(Clerk's Certification Seal)

CERTIFICATION OF SERVICE

I, Clerk of the above Court, do hereby certify that an attested copy of the foregoing has been served by mailing same to the following on this _____ day of _____, 20 _____ to:

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

_____

Clerk _____ Circuit Court

By: _____ D.C.

HAVE SEEN AND AGREED: (Not Required)

_____	_____
Signature of the Participant	Signature of the Alternate Payee
_____	_____
Signature of Attorney for Participant	Signature of Attorney for Alternate Payee

Printed Name of Participant: _____	Printed Name of Alternate Payee: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____
Phone: _____	Phone: _____
Fax: _____	Fax: _____