

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29 whether the person has withdrawn from service.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 dollar amount of the  
4 benefit, a percentage of the benefit, or specific formula to  
5 be applied to the member's benefit to be paid to the  
6 alternate payee as provided in subsection (n). ~~7-which-in-the~~  
7 ~~ease--of-a-nonperiodic-benefit-shall-be-expressed-as-a-dollar~~  
8 ~~amount,7-and-in-the--ease--of--a--periodic--benefit--shall--be~~  
9 ~~expressed-as-a-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). \$:~::~:--per-month,--beginning  
 26 {if--the--benefit--is--already--being--paid,--either  
 27 immediately--or--on--a--specified--later--date;--otherwise,  
 28 on--the--date--the--retirement--benefit--commences},--and  
 29 ending---upon---the---termination---of---the---retirement  
 30 benefit--or--the--death--of--the--alternate---payee,  
 31 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.