

REPORT  
OF THE  
JOINT INTERIM COMMITTEE ON PUBLIC RETIREMENT AND  
SOCIAL SECURITY PROGRAMS

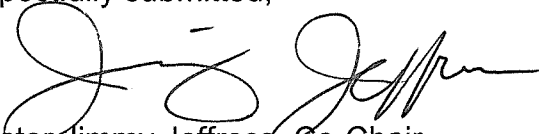
TO THE  
ARKANSAS LEGISLATIVE COUNCIL

Senator Henry "Hank" Wilkins, Chairman  
Representative Scott Sullivan, Chairman  
Arkansas Legislative Council

Dear Chairmen Wilkins and Sullivan:

At its September 19, 2008, meeting, the Arkansas Legislative Council referred to the Joint Interim Committee on Public Retirement and Social Security Programs the attached model Qualified Domestic Relations Order proposed by the Arkansas Teacher Retirement System. This is to advise that the proposed model received favorable review by the Joint Interim Committee on Public Retirement and Social Security Programs during its September 24, 2008, meeting.

Respectfully submitted,



Senator Jimmy Jeffress, Co-Chair



Representative Eric Harris, Co-Chair

Joint Interim Committee on Public Retirement and Social Security Programs

JJ:EH:es  
Attachment



1400 West Third, Little Rock, AR 72201  
Direct: (501) 682-1266  
Facsimile: (501) 682-6326  
Sender Email: [christac@artrs.gov](mailto:christac@artrs.gov)  
Website: [www.artrs.gov](http://www.artrs.gov)

September 9, 2008

Arkansas Legislative Council  
Attn: Mr. David Ferguson  
Bureau of Legislative Research  
State Capitol Rm 315  
Little Rock, Arkansas 72201

Re: Arkansas Teacher Retirement System  
Model Qualified Domestic Relations Order

---

Mr. Ferguson:

The Arkansas Teacher Retirement System (ATRS) is proposing the enclosed as its model Qualified Domestic Relations Order (QDRO) to replace the one currently in place. A QDRO is the court order utilized by ATRS that assigns certain retirement benefits to a former spouse of an ATRS plan participant as part of a divorce and property settlement.

The revisions to the model order clarify ATRS's requirements for administration of a QDRO under Arkansas Code § 9-18-103 (b) *et. seq.* and address benefit changes adopted after the original model order was approved in 1995. I would appreciate you placing this item on the calendar for the next meeting of the Legislative Council. Please feel free to contact me if you have any questions regarding this proposed order.

Sincerely yours,

Christa S. Clark, ATRS Chief Counsel

Enclosures

cc: Paul V. Doane, ATRS CEO w/o encl.  
Gail B. Bolden, ATRS COO w/o encl.

1 of 1 DOCUMENT

Arkansas Code of 1987 Annotated Official Edition  
(c) 1987-2008 by the State of Arkansas  
All rights reserved.

\*\*\* CURRENT THROUGH THE 2008 FIRST EXTRAORDINARY SESSION \*\*\*  
\*\*\* ANNOTATIONS CURRENT THROUGH JUNE 18, 2008 \*\*\*

Title 9 Family Law  
Subtitle 2. Domestic Relations  
Chapter 18 Qualified Domestic Relations Orders

**GO TO THE ARKANSAS CODE ARCHIVE DIRECTORY**

*A.C.A. § 9-18-103 (2008)*

**9-18-103. Orders to reach public employees' retirement benefits.**

(a) Notwithstanding §§ 24-3-212 [repealed] and 24-7-715 or any other laws of Arkansas limiting the application of legal process to any retirement plans, the Arkansas Teacher Retirement System, the State Police Retirement System, the Arkansas State Highway Employees' Retirement System, the Arkansas Public Employees' Retirement System, the Arkansas Judicial Retirement System, and any other state-supported retirement system shall comply with any qualified domestic relations order as defined in this section.

(b) The boards of trustees of the retirement systems shall promulgate rules and regulations to implement this section and shall adopt a uniform legal form, as approved by the Legislative Council, for use in preparing qualified domestic relations orders for each retirement plan.

**HISTORY:** Acts 1993, No. 1143, § 3.

**HIERARCHY NOTES:**

Tit. 9, Subtit. 2, Ch. 18 Note

## 1 of 3 DOCUMENTS

Arkansas Code of 1987 Annotated Official Edition  
(c) 1987-2008 by the State of Arkansas  
All rights reserved.

\*\*\* CURRENT THROUGH THE 2008 FIRST EXTRAORDINARY SESSION \*\*\*  
\*\*\* ANNOTATIONS CURRENT THROUGH JUNE 18, 2008 \*\*\*

Title 9 Family Law  
Subtitle 2. Domestic Relations  
Chapter 18 Qualified Domestic Relations Orders

**GO TO THE ARKANSAS CODE ARCHIVE DIRECTORY**

*A.C.A. § 9-18-101 (2008)*

**9-18-101. Definitions.**

As used in this section:

(1) "Circuit court" means the equity court of each county in the State of Arkansas created under § 16-13-301 et seq.;

(2) "Domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that relates to the provisions for child support, alimony payment, or marital property rights to a spouse, former spouse, child, or other dependents of a participant under Arkansas law;

(3) "Participant" means any person or member of a retirement plan;

(4) "Qualified domestic relations order" means a domestic relations order:

(A) Which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant's retirement plan; and

(B) Which clearly specifies the name and last known mailing address, if any, of the participant and the name and mailing address of each alternate payee covered by the order, the amount or percentage of the participant's benefits to be paid by the plan to each alternate payee or the manner in which the amount or percentage is determined, the number of payments or period of time to which the order applies, and each retirement plan to which the order applies; and

(C) Which does not require the retirement plan to provide any type or form of benefit, or pay options not otherwise available under the plan, does not require the plan to provide increased benefits, and does not require the payment of benefits to an alternate payee that are required to be

## A.C.A. § 9-18-101

paid to another alternate payee under another order previously determined to be a qualified domestic relations order; and

(5) "Retirement plan" means any retirement plan, private or public, including, but not limited to:

- (A) The Arkansas Teacher Retirement System;
- (B) The State Police Retirement System;
- (C) The Arkansas State Highway Employees' Retirement System;
- (D) The Arkansas Public Employees' Retirement System;
- (E) The Arkansas Judicial Retirement System; and
- (F) Other state-supported alternate retirement systems.

**HISTORY:** Acts 1993, No. 1143, § 1.

**NOTES:****A.C.R.C. Notes.**

Ark. Const., Amend. 80, adopted by voter referendum and effective July 1, 2001, abolished chancery courts and established circuit courts as the trial courts of original jurisdiction. The jurisdiction of the circuit courts now includes "all matters previously cognizable by Circuit, Chancery, Probate and Juvenile Courts ... "

**HIERARCHY NOTES:**

Tit. 9, Subtit. 2, Ch. 18 Note

**ARKANSAS TEACHER RETIREMENT SYSTEM  
MODEL QUALIFIED DOMESTIC RELATIONS ORDER**

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, ARKANSAS

\_\_\_\_\_  
PLAINTIFF

No. \_\_\_\_\_

\_\_\_\_\_  
DEFENDANT

**QUALIFIED DOMESTIC RELATIONS ORDER**

(Introduction describing how the case came before the Court for disposition.) The Court finds and orders that this Qualified Domestic Relations Order (a "QDRO"), pursuant to Act 1143 of 1993 as amended, is an integral part of and is incorporated into the judgment, decree or order of this Court entered \_\_\_\_\_ (Date) which relates to the provisions therein for child support, alimony or marital property rights, including approval of a property settlement agreement, awarded to a spouse or former spouse, child or other dependent of \_\_\_\_\_ (Name of Plan Participant) "the Member", of the Arkansas Teacher Retirement System "the Plan".

**I. PARTIES TO THIS ORDER**

[MEMBER'S NAME] \_\_\_\_\_ is the Member under this Order whose date of birth is [MEMBER'S DATE OF BIRTH]. [ALTERNATE PAYEE'S NAME] \_\_\_\_\_ is "the Alternate Payee" under this Order whose date of birth is [ALTERNATE PAYEE'S DATE OF BIRTH]. The Member and the Alternate Payee were married on [DATE OF MARRIAGE]. The parties received a divorce or other final marriage dissolution on [DATE OF DIVORCE].

**II. MEMBER'S RETIREMENT ANNUITY – MONTHLY BENEFITS**

(Choose either A or B)

A. Marital Portion – The Alternate Payee is awarded [\_\_\_\_\_] % of the Member's accrued retirement annuity from the date of the marriage to the date of divorce. The marital portion shall be paid to the Alternate Payee as an annuity, payable for the Member's lifetime. All annuity benefits paid to the Alternate Payee shall

be paid as a straight life annuity. No survivor or other death benefits will be payable upon the Alternate Payee's death.

[OR]

B. Set Amount. The Alternate Payee is awarded [\$ \_\_\_\_\_] of the Member's monthly retirement benefit as of the date of divorce. The set amount of the Member's monthly benefit assigned to the Alternate Payee under this Order may not exceed the Member's total monthly benefits payable as of the date of divorce. The set amount will be paid monthly to the Alternate payee for the Member's lifetime. No survivor or other death benefits will be payable upon the Alternate Payee's death.

### **III. TEACHER DEFERRED RETIREMENT OPTION PLAN (T-DROP)**

[Include this section only if (i) the Member participated in the deferred retirement option plan during the marriage and (ii) the Member has not received his/her deferred retirement option plan distribution prior to entry of this QDRO.]

[Choose A or B]

A. Marital Portion. The Alternate Payee is awarded \_\_\_\_\_% of the Member's T-DROP plan deposits and plan interest deposited in the Member's T-DROP account from the date of marriage to the date of divorce. The Plan shall calculate interest in the T-DROP account by totaling the amount of T-DROP plan deposits and plan interest deposited during the marriage and multiplying that amount by the percentage stated above.

Any T-DROP benefits paid to the Alternate Payee under this Order will be paid upon the Member's distribution of T-DROP plan benefits in accordance with the Plan. The distribution shall be paid to the Alternate Payee under the same distribution option elected by the Member.

B. Set Amount. The Alternate Payee is awarded \$ \_\_\_\_\_ of the Member's T-DROP plan deposits and plan interest deposited in the Member's T-DROP account as of the date of divorce. The set amount of the Member's T-DROP account assigned to the Alternate Payee under this Order may not exceed the Member's T-DROP account balance, credited by the Plan, as of the date of divorce.

Any T-DROP benefits paid to the Alternate Payee under this Order will be paid upon the Member's distribution of his/her T-DROP plan benefits in accordance with the Plan. The distribution shall be paid to the Alternate Payee under the same distribution option elected by the Member.

#### **IV. EFFECTIVE DATE OF MONTHLY RETIREMENT BENEFITS UNDER THIS ORDER**

The Plan shall begin benefit payments to the Alternate Payee in accordance with applicable Plan provisions governing distributions to its members. Payments to the Alternate Payee will occur upon the earlier of: (1) when the Member retires and begins receiving retirement benefits, or (2) when the Member ceases to be an active participant of the Plan and requests a refund of his/her deposit account. If the Member is retired upon the Plan's receipt of a QDRO, benefits to the Alternate Payee will commence the month following the date the Plan has accepted and processed the Order.

#### **V. MEMBER'S DEPOSIT ACCOUNT- PAYMENT OF EMPLOYEE CONTRIBUTIONS UPON MEMBER'S REFUND**

[Choose A or B]

A. Marital Portion. If the Member discontinues covered employment and withdraws his/her contributions including interest deposited by the Plan as a lump sum, the Alternate Payee shall receive [\_\_\_\_\_] % of the Member's contributions and interest deposited from the date of marriage to the date of divorce.

[OR]

B. Set Amount. If the Member discontinues covered employment and withdraws his/her contributions including interest deposited by the Plan as a lump sum, the Alternate Payee shall received the set amount of [\$\_\_\_\_\_] from the Member's deposits upon distribution of the refund by the Plan. The set amount of the Member's deposit account assigned to the Alternate Payee in this Order may not exceed the Member's account balance plus interest credited by the Plan as of the date of divorce.

#### **VI. MEMBER'S DEATH PRIOR TO RETIREMENT**

[Choose A or B]

A. Marital Portion. If the Member dies prior to retirement and a retirement or survivor annuity is not payable by the Plan because of the Member's death, the Alternate Payee shall receive [\_\_\_\_\_] % of the Member's contributions and interest deposited from the date of marriage to the date of divorce.

[OR]

B. Set Amount. If the Member dies prior to retirement and a retirement or survivor annuity is not payable by the Plan because of the Member's death, the



Alternate Payee shall receive the set amount of [\$\_\_\_\_\_] from the Member's contributions and interest deposited by the Plan. The set amount of the Member's deposit account assigned to the Alternate Payee in this Order may not exceed the Member's account balance and interest credited by the Plan as of the date of divorce.

#### **VII. ADDITIONAL LIMITATIONS OF THIS ORDER**

- A. If the Alternate Payee dies prior to the receipt of benefits under this Order, the entire amount that may be due to the Alternate Payee reverts to the Member.
- B. All cost of living adjustments or other benefit enhancements adopted by the Arkansas General Assembly or the Plan's Board of Trustees after the date of this Order shall be credited to the Member and shall not be included in the calculations under this Order or otherwise be assigned to the Alternate Payee.
- C. If the Member or Alternate Payee receives any distributions that should not have been paid under this Order, that party is designated a constructive trustee for the amount received and shall immediately notify the Plan. The Plan reserves all rights to adjust payments or otherwise collect amounts owed to the Plan under Arkansas Code § 24-7-205.
- D. Both parties are ORDERED to provide the Plan prompt written notification of any changes in their respective mailing addresses. The Plan shall not make payments to the Alternate Payee under this Order until the Plan has received such documentation as it determines to be necessary for the proper administration of the Plan, and the Plan will not be liable for failing to make payments to Alternate Payee at time of payment.
- E. If payments from the Plan to the Alternate Payee are determined to be less than \$20.00 a month, the Court orders the Plan to disburse the money to the Member who shall pay same to the Alternate Payee.
- F. Member or Alternate Payee shall furnish a certified copy of this Order to the Plan. Upon acceptance of this Order, the Member consents to disclosure of his/her Plan account information to the Alternate Payee or his/her authorized representative to the extent necessary to administer this Order.
- G. Both parties to this Order agree to provide the Plan all required forms and elections necessary for it to administer the provisions of this Order.
- H. The Court retains jurisdiction to amend this Order so that it will constitute a QDRO under the Plan even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If the Plan determines at any time that changes in the law, the administration of the Plan, or any other