

Divorce, Dissolution of a Civil Union, and Retirement Benefits

All Funds

ENCUMBRANCES ON YOUR PENSION

Although your pension is normally exempt from any liens, the Division of Pensions and Benefits will honor court orders for child support, alimony, or equitable distribution.

The New Jersey State-administered retirement systems are not regulated by federal ERISA* legislation. However, court decisions and opinions rendered by the New Jersey Attorney General have resulted in the retirement systems implementing matrimonial/civil union dissolution court orders granting alimony, support, or equitable distribution against a member's monthly retirement allowance.

It is the responsibility of the member to provide the Division of Pensions and Benefits with copies of all court orders as well as to comply with the provisions of the court orders.

KNOW YOUR BENEFICIARY DESIGNATIONS

A member involved in a divorce or dissolution proceeding should discuss their beneficiary designation with their attorney at the time the divorce/dissolution papers are filed and again after the final decree has been issued. If you are unsure of your current beneficiary designations, active members may obtain this information online using the Member Benefits Online System (MBOS). You must be registered with MBOS. To begin the process go to:

www.state.nj.us/treasury/pensions/mbosregister.shtml

If you are a retired member, or unable to access MBOS, you can make a request in writing for the names of your beneficiaries on file with the Division of Pensions and Benefits. Write to: Beneficiary Designation, Division of Pensions and Benefits, PO Box 295, Trenton, NJ 08625-0295 and include your name, Social Security number or pension member-

ship/retirement number, and signature. For your protection, beneficiary designations cannot be confirmed or changed over the telephone or by e-mail.

ACTIVE MEMBERS

In cases of divorce or dissolution, New Jersey Statute, N.J.S.A. 3B:3.14 states that even if your *Designation of Beneficiary* form indicates a former spouse/partner and/or relatives of the former spouse/partner as beneficiaries for pension or insurance they cannot receive the benefit. Therefore, the pension and/or life insurance proceeds become payable to your remaining primary beneficiaries, if any, contingent beneficiaries, if any, or your estate. The following exceptions will be honored and considered valid:

- Court orders are filed that specifically designate your former spouse/partner to receive a pension and/or life insurance benefit; or
- You sign and file a *Designation of Beneficiary* form after the final date of judgment that names your former spouse/partner and/or relatives of your former spouse/partner as pension and/or life insurance beneficiary.

RETIRED MEMBERS

The following discusses your retirement allowance and the survivor benefits for pension and life insurance as a result of divorce/dissolution at retirement.

Pension

Matrimonial/civil union dissolution orders regarding your retirement will not take effect until you retire and begin receiving a monthly retirement allowance. The court order can designate a specific dollar amount or percentage, or a percentage based on the number of years of pensionable service you accrued during the

*ERISA legislation authorizes the payment of retirement benefits in accordance with the requirements of a judge's executed divorce order issued by a court, generally in connection with the granting of a dissolution of a marriage or civil union.

marriage/civil union, to be withheld from your retirement allowance. The amount is sent directly from the Division of Pensions and Benefits to your former spouse/partner unless the order specifies another payee (i.e. a probation department). Any court ordered withholding paid to your former spouse/partner from your retirement allowance will terminate upon your death or the death of the former spouse/partner.

Survivor Benefits

If you are a member of the **Public Employees' Retirement System (PERS)** or the **Teachers' Pension and Annuity Fund (TPAF)**, upon your retirement you can select an option beneficiary to receive a lifetime monthly pension benefit upon your death. Option beneficiaries chosen at retirement cannot be modified regardless of changes in your marital/partnership status.

If the former spouse/partner is designated the beneficiary under a PERS or TPAF pension option — either voluntarily by the member or by court order — the surviving former spouse/partner is entitled to the survivor's benefit for as long as he or she lives.

If another person is designated as the beneficiary of the PERS or TPAF pension option, the divorced spouse/partner is not entitled to any equitable distributions from the survivor's benefit.

If you are a retiree of the Police and Firemen's Retirement System (PFRS) or the State Police Retirement System (SPRS) a divorce/dissolution automatically precludes your former spouse/partner from ever receiving a survivor's benefit. Upon your death or the death of your former spouse/partner, all withholdings mandated under a matrimonial/civil union dissolution order will cease.

If you are a retiree of the Judicial Retirement System (JRS), a divorce/dissolution precludes your former spouse/partner from receiving the statutory survivor's benefit; however, if the former spouse/partner is designated as the beneficiary under a JRS pension option — either voluntarily by the member or by court order — the surviving former spouse/partner is entitled to the survivor's pension option benefit for as long as he or she lives.

If another person is designated as the beneficiary of the JRS pension option, the divorced spouse/partner is not entitled to any equitable distributions from the survivor's pension option benefit.

Life Insurance

In cases of divorce or dissolution, even though your *Application for Retirement Allowance* may indicate your former spouse/partner and/or relatives of your former spouse/partner as beneficiaries for life insurance they cannot receive the benefit. The proceeds from your life insurance policy become payable upon your death to your remaining primary beneficiaries, if any, contingent beneficiaries, if any, or your estate. The following exceptions will be honored and considered valid:

- Court orders are filed that specifically designate your former spouse/partner to receive a life insurance benefit; or
- You sign and file a *Designation of Beneficiary* form after the final date of judgment that names your former spouse/partner as life insurance beneficiary.

LIFE INSURANCE POLICY ASSIGNMENTS

You can choose a Policy Assignment of your group life insurance to your former spouse/partner. Under a Policy Assignment, your former spouse/partner assumes "ownership" of the insurance benefit and has the right to name any beneficiary for any life insurance benefits payable after your death. This may satisfy a court order for an irrevocable designation of beneficiary. However, you lose all rights to name or change a beneficiary and lose the privilege of conversion upon termination of employment.

HEALTH INSURANCE FOR A FORMER SPOUSE OR PARTNER

For loss of health insurance coverage (including dental and prescription drug) due to divorce, dissolution of a civil union, or legal separation, your former spouse or partner is entitled to continue participation in the State Health Benefits Program (SHBP) or School Employees' Health Benefit Program (SEHBP) under the provisions of COBRA for a period not to exceed 36 months. Under COBRA your former

A PUBLICATION OF THE NEW JERSEY DIVISION OF PENSIONS AND BENEFITS

spouse/partner may be covered for health, dental, and prescription drug insurance during this 36-months as long as she or he is unable to receive similar coverage on his or her own, through an employer, a new spouse/partner, or if she or he has an existing condition not covered by available insurance.

The cost of COBRA coverage is borne by the participant and amounts to the full group rate of the benefit, plus an additional 2 percent administrative charge.

You are responsible for notifying your employer within 60 days of a COBRA qualifying event such as divorce, dissolution of a civil union, or legal separation. If you do not inform your employer of the change in dependent status within the 60 days, you may for-

feit the dependent's right to COBRA coverage and become personally responsible for the cost of any health insurance required through a court order.

ADDITIONAL INFORMATION

For additional information about your benefits and divorce or dissolution of a civil union, see the following fact sheets:

- Fact Sheet #9, *Divorce and Your Deferred Compensation Account* (for members of the NJSEDCP)
- Fact Sheet #83, *Qualified Domestic Relation Order (QDRO)*

This fact sheet has been produced and distributed by:

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