



**House
Legislative
Analysis
Section**

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SERS: RETIREMENT DIVORCE PROVISIONS

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House Bill 5332
Sponsor: Rep. Mary Brown
Committee: Senior Citizens and
Retirement

Complete to 2-15-90

A SUMMARY OF HOUSE BILL 5332 AS INTRODUCED 12-7-89

The bill would amend the State Employees Retirement Act to make technical amendments and to require pensions to be subject to qualified domestic relations orders in relation to child support, alimony, or the marital property rights of a spouse, former spouse, child, or other dependent of a retirement system member. The provisions of the bill would apply to a member's pension, annuity, retirement allowance, or optional benefits, to regular or reduced retirement allowances, and to the pensions and benefits of deceased members and those who had received duty disability allowances. Under the bill, the creation, assignment, or recognition of the right of an alternate payee to an actual interest in a share of a benefit that was or would become payable to a member under a qualified domestic relations order could not be considered immune from legal process. The provisions of the bill would apply to domestic relations orders filed with the retirement system before, as well as after, the effective date of the bill.

Under the bill, an alternate payee (the member's spouse, former spouse, child, or other dependent named in the domestic relations order) would be entitled to an actual interest in a share of a benefit that was or would become payable to a member if provided in a domestic relations order that met the following requirements:

-- The order contained the name and last known address of the member and of the alternate payee.

-- The order stated the amount or percentage of the benefit to be paid to the alternate payee, or the manner under which the amount or percentage was to be determined and the number of payments or the period of time to which the order applied.

-- The order stated that it applied to the State Employees Retirement System.

-- The order did not require the retirement system to provide a type or form of benefit or a payment option not otherwise provided by the act, and did not require the system to provide an increased benefit.

-- The order did not require the payment of a benefit that was required to be paid to another alternate payee under a previously filed, qualified, domestic relations order.

The retirement system would be required to establish a reasonable procedure to determine if a domestic relations order were qualified, and to notify the member and the alternate payee named in the order of its decision. Payment to an alternate payee named in a domestic relations order would begin on the first day of the month following the month in which the domestic

House Bill 5332 (2-15-90)

relations order were determined to be qualified, or the first day of the month following the month in which a benefit were payable under the order, whichever were later. Should the determination be made that a domestic relations order were not qualified, an amended order could be filed with the retirement system.

Under the bill, a qualified domestic relations order could also provide for the payment of a benefit to an alternate payee after the member reached the earliest retirement age, but before he or she separated from service. The "earliest retirement age," under the bill, would mean the earlier of either a) the date the member was entitled to a benefit under the act, or b) the date the member reached age 50, or the earliest date on which the member could begin receiving benefits if he or she separated from service, whichever was later. An alternate payee would not receive payment of a benefit until the member met all the requirements for retirement under the act, except for separation from service. An alternate payee who elected to receive payments when the member reached the "earliest retirement age," but before separation from service, would only be entitled to the actuarial equivalent of the amount that would have been received if he or she had elected instead to wait until the member reached regular retirement age. When the member did retire, however, the retirement system would be required to recalculate the actuarially reduced amount, and if the recalculated amount were more than the amount currently being paid, then the recalculated amount would be paid, effective the first day of the month immediately following the month during which the member retired. A qualified domestic relations order could also provide for a former spouse to receive benefits as a surviving spouse. If the amount or percentage of the benefit to be paid to the former spouse were less than the entire amount he or she would have received as the surviving spouse, then the surviving spouse would be entitled to receive that portion of the retirement allowance not payable to the former spouse. Similarly, if the domestic relations order provided for the election of a reduced retirement allowance, and the amount paid were less than the entire amount payable to a retirement allowance beneficiary, the retirement allowance beneficiary designated by the deceased member would be entitled to receive that portion of the retirement allowance not payable to a former spouse.

MCL 38.27 et al.