

[SAMPLE EDRO]

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF _____

Plaintiff,

Case No: _____

Hon: _____

Defendant.
_____ /

P _____
Attorney for Plaintiff
{Address} _____

{Phone#} _____

P _____
Attorney for Defendant
{Address} _____

{Phone#} _____
_____ /

ELIGIBLE DOMESTIC RELATIONS ORDER

At a session of said court, held in the Courthouse,
City of _____, County of _____, State of Michigan

On _____

PRESENT: HON. _____
CIRCUIT COURT JUDGE

This Order is intended to serve as an Eligible Domestic Relations Order ("EDRO") by which [Plaintiff/Defendant], _____ assigns, a portion of [his/her] retirement benefits, under the retirement system specified below, to the [Plaintiff/Defendant], _____, in accordance with the Eligible Domestic Relations Order Act (Public Act 46 of 1991 - MCL §§38.1701-38.1711) and the City of Southgate Police and Fire Retirement System. [It is intended that this Order be incorporated in the Judgment of Divorce entered _____, 20 __, and made a part thereof].

1. The Retirement System (the "Plan") subject to this Order is as follows:

Southgate Police and Fire Retirement System
14730 Reaume Pkwy.
Southgate, Michigan 48195

The plan is a Defined Benefit Plan and Defined Contribution Plan.

2. The Participant is the [Plaintiff/Defendant], _____, Social Security No. _____ - _____, Date of Birth _____; whose last known address is:

3. The Alternate Payee is the [Plaintiff/Defendant], _____, Social Security No. _____ - _____, Date of Birth _____; whose last known address is:

- * Please note that for privacy concerns, personal information including social security number, date of birth, and address may be attached separately after the EDRO is filed with the Court.

4. The Participant and the Alternate Payee were married on _____, 19____, and were [divorced/separated] on _____, 19____.

5. The Participant assigns to the Alternate Payee a portion of [his/her] benefits from the Plan and the Plan will pay benefits to the Alternate Payee according to the following terms and conditions:

(a) **SELECT:**

Alt. 1 It is the parties' intention, and the order of this Court, that the Alternate Payee receive a monthly benefit from the Defined Benefit Plan of _____% of the amount of the Participant's retirement allowance, including a prorata share of any guaranteed automatic annual benefit increases, which has accrued as of _____, 19____, which percentage takes into consideration the years of service, if any, that were accrued prior to the date of marriage.

OR

Alt. 2 It is the parties' intention, and the order of this Court, that the Alternate Payee receive a monthly benefit from the Plan of \$_____

_____, including a prorata share of any guaranteed automatic annual benefit increases.

- (b) It is the parties intention and the order of this Court that the Alternate Payee receive a distribution from the Defined Contribution Plan of _____% of the Participant's balance which has accrued as of _____, 199____, including a prorata share of any annual adjustments made after _____, 199____ to reflect gains or losses allocated to the Defined Contribution Plan, which percentage takes into consideration the years of service, if any, that were accrued prior to the date of marriage.
- (c) Payments to the Alternate Payee shall commence

SELECT:

Alt. 1 when the Participant begins to receive benefits under the Plan.

OR

Alt. 2 as selected by the Alternate Payee at any time beginning when the Participant reaches the earliest retirement date as defined in Section 2(d) of the Eligible Domestic Relations Order Act (Public Act 46 of 1991).

- (d) Payments to the Alternate Payee for that portion of the retirement allowance which is being divided in Paragraph 5(a) will be made

SELECT:

Alt. 1 during the life of the Alternate Payee and shall end upon the death of the Alternate Payee.

OR

Alt. 2 during the life of the Participant and shall end upon the death of the Participant.

OR

Alt. 3 under the Plan's Option [I or II]. The Participant shall designate the Alternate Payee as beneficiary of the Option [I or II] allowance. While both parties are alive, the Plan shall pay the Alternate Payee [Alt. 1: _____%/Alt. 2 \$ _____] of the reduced Option [I or II] retirement allowance. After the Participant's death, if the Alternate Payee is alive, the Plan shall pay the Alternate Payee [100% or 50%] of the reduced Option [I or II] retirement allowance which is being divided in Paragraph 5(a). After the Alternate Payee's death, if the

Participant is alive, the entire reduced Option [I or II] retirement allowance shall be paid to the Participant.

- (e) If the provisions of paragraphs 5(c) and 5(d) above would require the Plan to provide increased benefits compared to the benefits the Plan would have paid had the divorce not occurred, determined on the basis of actuarial equivalent values, due to differences in life expectancies of the Participant and the Alternate Payee, the increased value shall be eliminated through adjustments to the benefits otherwise payable to

SELECT:

Alt. 1 the Alternate Payee.

OR

Alt. 2 the Participant.

- Optional** (f) If the Plan pays any post-retirement cost of living benefit increase (i.e., non-guaranteed annual increases, supplemental payments/13th checks, one-time increases) on the benefits being paid from the Plan, the Alternate Payee shall receive a share of each such increase that is paid after the later of the date this Order is determined by the Plan Administrator to be an EDRO, and the date when the Participant begins to receive benefits under the Plan. The Alternate Payee's share of each such increase will be in proportion to the amount of the Participant's retirement allowance that is awarded the Alternate Payee under Paragraph 5(a).
- (g) If the Alternate Payee predeceases the Participant prior to the commencement of benefits to the Alternate Payee under this Order, the Alternate Payee's interest in the Plan shall revert back to the Participant.
- Optional** (h) The Participant shall designate the Alternate Payee as the surviving spouse for all purposes under the Plan for that portion of the retirement allowance which is being divided in Paragraph 5(a).
- (i) The Alternate Payee shall include in [his/her] gross income, for the tax year of receipt, all retirement benefit distributions that [he/she] receives pursuant to the Participant's assignment of benefits under this EDRO; and, accordingly, the Participant shall not include such benefit distributions in [his/her] gross income. The Alternate Payee shall be treated as the sole distributee under IRC Sections 72 and 402 of any payment or distribution that is made to [him/her] under the Participant's assignment of benefits under this EDRO.
- (j) The Participant and the Alternate Payee agree to share any additional actuarial costs incurred by the Plan due to this Order or the benefit election by the Alternate Payee under this Order. The Alternate Payee's share of said costs shall be in proportion to [his/her] share of the Participant's total retirement allowance awarded to the Alternate

Payee under Paragraph 5(a).

6. This assignment of benefits shall not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan. This assignment shall not require the Plan to provide increased benefits, determined on the basis of actuarial equivalent values. This assignment shall not require the Plan to provide benefits to the Alternate Payee which are required to be paid to another alternate payee under another order previously determined to be an EDRO, or as otherwise provided by Section 11 of the Eligible Domestic Relations Order Act (Public Act 46 of 1991).
7. The Participant, the Alternate Payee and the Court intend this Order to be an EDRO under the Eligible Domestic Relations Order Act (Public Act 46 of 1991), the Plan and related legislation.
8. The parties agree that their mutual intent is to provide the Alternate Payee with a retirement payment that fairly represents what they have agreed to be the Alternate Payee's marital share of the Participant's accrued retirement benefit as defined in Paragraphs 5(a). In the event the administrator of the Plan determines this Order not to be an EDRO satisfactory to the Plan, the Participant and Alternate Payee hereby agree to submit to and request a court of competent jurisdiction to modify the Order to make it an EDRO satisfactory to the Plan in such a manner that will reflect the parties' intent as herein expressed and thereafter to enter an order modifying this Order, said modification order to be entered nunc pro tunc, if appropriate, so as to comply with Public Act 46 of 1991, the Plan and related legislation.

Circuit Court Judge

Approved as to form:

____ P _____ Date _____
Attorney for Plaintiff

____ P _____ Date _____
Attorney for Defendant

Distribution of copies:

- Original to Circuit Court Clerk
- Certified copy to Plan Administrator