

# QDRO's and IRS Determination Letters



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# QDRO's

In a divorce, a court may award a portion of a member's retirement benefits to a former spouse. A qualified domestic relations order (QDRO) is an order entered by the court in a divorce that directs the retirement system to make direct payment of a portion of a participant's benefits to his or her former spouse. In Texas, public pension plan QDROs are governed by Chapter 804, Texas Government Code. For the QDRO provisions of Chapter 804 to apply, your board of trustees must elect to adopt the provisions of this subchapter and Subchapter C. A board of trustees may not elect to adopt only this subchapter or Subchapter C.

# Continued

## **Sec. 804.003. QUALIFIED DOMESTIC RELATIONS ORDERS.**

(b) “The administrative head of a public retirement system to which this chapter applies and to which a domestic relations order is submitted or his designee has exclusive authority to determine whether a domestic relations order is a qualified domestic relations order. A determination by the administrative head or his designee under this section may be appealed only to the board of trustees of the public retirement system.”

(c) “A court does not have jurisdiction over a public retirement system to which this chapter applies with respect to a divorce or other domestic relations action in which an alternate payee's right to receive all or a portion of the benefits payable to a member or retiree”

(g) A public retirement system may reject a domestic relations order as a qualified domestic relations order unless the order:

(9) if required by the retirement system, conforms to a model order adopted by the retirement system.

# Model QDRO's

- Can be adopted by the Board and require members/applicants to use your model.
- Consider multiple versions (Monthly Payments, Lump Sum,etc.)
- Saves the recurring cost of legal fees for the plan.

# IRS Determination letters

- IRS Determination letters will only be issued for New Plans.
- Any determination letter prior to 2016 will have an expiration date. This expiration date is no longer valid. Favorable Determination letters do not expire.
- Plans need to update their plan document to comply with any new IRS changes.