



# Rights of Spouses and Dependents

## Public Employees' Retirement System

**Under the PERS, there are provisions that recognize the rights of spouses and dependents to receive PERS benefits. These provisions:**

- require that the benefit payable to a married member who retires be in the form of a joint and survivor (J&S) annuity, unless the spouse consents to another form of benefit; and
- require that a survivor's annuity under a J&S annuity option be provided to the surviving spouse of a vested member who dies before retirement (the spouse may waive the survivor's annuity); and
- allow a former spouse to be treated as a spouse or surviving spouse of a member, to the extent required in a qualified domestic relations order (QDRO), as part of the property settlement in a divorce or dissolution judgment. Rights of a former spouse and dependents under a QDRO may take precedence over other rights under the retirement system statutes.

*The PERS administrator may waive the required written consent before retirement if:*

- (1) the member was not married to the spouse during any part of the member's PERS employment;
- (2) the spouse has no rights to the J&S benefit because of the terms of a qualified domestic relations order (QDRO);
- (3) the spouse cannot be located;
- (4) the member and spouse have been married less than two years and the member has established that they are not living together; or
- (5) another reason established by regulation exists.

## Retirement Benefits

At retirement time, there are various types of benefits available, including the 50%, 66-2/3%, and 75% joint and survivor (J&S) options. Selection of any one of the J&S options will provide a continuing, lifetime monthly benefit to your spouse, or other eligible dependent, if you die before your spouse.

Married members are required by PERS statutes to select a J&S option when they retire. This requirement will be waived if a member's spouse gives written consent to another type of benefit to the PERS administrator.

The 50% J&S option is automatically required when (1) a member fails to select a J&S option, and (2) the spouse does not consent to another type of benefit.

If the spouse consents, the member may select another retirement option (normal, early or level income) that will pay monthly benefits to the member during his or her lifetime, but will not pay monthly benefits to the spouse after the member's death. The spouse's consent to another type of benefit may be made BEFORE the member's retirement date on

form PERS035, *PERS Application for Retirement Benefits*.

Only a spouse who was married to a member at the time the member retired may be treated as a surviving spouse.

A joint survivor option elected at retirement is irrevocable. Following a post retirement divorce/dissolution, an ex-spouse, who was married to a member when the member retired and elected a joint and survivor option, continues to be eligible for the survivor benefit (and any associated medical benefits), in the event of the death of the member. A future spouse of a retired member who married the member AFTER the member retired may not be treated as a surviving spouse under any circumstances.

Rights under a QDRO do not take effect until the QDRO is filed with the PERS administrator. Benefits ordered under a QDRO must conform to the PERS statutes.

## Beneficiary Designation

If you are married at the time of your death and you were married to the same person during part of your PERS employment, your spouse is automatically your beneficiary, regardless of your written designation, unless:

- your spouse consents to another beneficiary on form 02-822; or
- another person (such as a former spouse) is eligible for the benefits under a qualified domestic relations order (QDRO). That person would be entitled to the portion of the benefit that is ordered by the QDRO.

See *Designation of Beneficiary* in the *PERS Information Handbook* for more information.

## Former Spouses

A former spouse may be eligible for all or part of a PERS benefit under a qualified domestic relations order (QDRO).

A former spouse who is entitled to a joint and survivor benefit under a QDRO may give written consent to the PERS administrator to allow the member to select another form of benefit before the member retires.

## Prompt Claim for Benefits

Individuals who are entitled to benefits because of marriage or a qualified domestic relations order (QDRO) must file evidence of their entitlement with the PERS administrator to protect their rights.

Evidence of entitlement (marriage certificate, divorce or dissolution decree, or QDRO) should be filed with the PERS administrator immediately after the change in marital status.

It is important that you provide the PERS administrator with notice of your entitlement within 10 days of the member's death.

If notice is not provided within 10 days and benefits are paid to another person before your claim is filed, you will not receive those benefits already paid. However, if there are benefits remaining to be paid, they will be paid according to entitlement.

## Medical Benefits

In the event of a divorce, the medical coverage for the spouse terminates on the date of the divorce.

Receipt of part or all of a monthly benefit by a former spouse under a qualified domestic relations order (QDRO) does NOT entitle that person or his or her dependents to major medical insurance coverage. However, that coverage may be received if the person elects it in a timely manner and pays the required premiums.

See *Insurance* in the *PERS Information Handbook* for details.

## Refund of Contributions

Terminated, married members who are vested in either the PERS or Teachers' Retirement System (TRS) who are or will be eligible for retirement benefits, including conditional service benefits, may not receive refunds of their employee contribution accounts unless: (1) their spouses give their written consent to the administrator, or (2) consent is waived. The PERS administrator may waive the required written consent if:

- (1) the member was not married to the spouse during any part of the member's PERS employment;
- (2) the spouse has no rights under the terms of a qualified domestic relations order (QDRO);
- (3) the spouse cannot be located;
- (4) the member and spouse have been married less than two years and the member establishes that they are not living together; or
- (5) another reason established by regulation exists.

If another person (alternate payee) is entitled to a member's PERS benefits or contributions under a QDRO, the member may NOT receive a refund unless the alternate payee relinquishes his or her rights to those benefits by signing a consent form.

The administrator may waive the written consent if the alternate payee cannot be located or another reason exists by regulation.

Rights under a QDRO do not take effect until the QDRO is filed with the PERS administrator. Benefits ordered under a QDRO must conform to the PERS statutes.

### Division of Retirement and Benefits

P.O. Box 110203

Juneau, AK 99811-0203

**Toll-Free: 1-800-821-2251**

Juneau: (907) 465-4460

FAX: (907) 465-3086

TDD for the hearing impaired – (907) 465-2805

[www.state.ak.us/drj](http://www.state.ak.us/drj)