**UTAH RETIREMENT SYSTEMS DEFINED BENEFIT PLAN**

**MODEL DOMESTIC RELATIONS ORDER INSTRUCTION SHEET**

 The Utah Retirement Systems (URS) Defined Benefit Plans (pension) are qualified under the Internal Revenue Code. URS is not governed by the Employee Retirement Income Security Act (ERISA). In other words, URS Defined Benefit Plans are not an ERISA plan. URS cannot accept the same type of order used by ERISA plans as a domestic relations order (DRO). Instead, use the model language provided in the Model Order prepared by URS.

 URS administers the various systems, plans and programs established by the Utah Legislature and the Utah State Retirement Board. URS does not require benefits or account balances to be divided in a divorce situation. URS does not mediate marital property disputes, nor does URS give legal advice concerning domestic relations law. Each person submitting a DRO to URS is responsible to ensure that their Order adequately protects their rights.

 The following instructions are provided to assist with drafting orders that will produce the intended result and meet URS DRO requirements. Although the court determines how to divide a Member’s account balance, only URS can deem a DRO approved.

**1. RETIREMENT PLANS**

URS administers retirement plans in two separate areas, Defined Benefit Plans (pension) and Defined Contribution Savings Plans (401(k), 457 and IRAs). This model covers the Defined Benefit Plans. The Defined Contribution Savings Plans have a separate Model Order and a separate DRO must be filed if Defined Contribution Savings

Plans are to be split. If a Participant/Member elects to participate in the Tier II Hybrid Plan separate DROs must be prepared for a division of the defined benefits and/or the defined contributions. In order to adequately prepare a DRO you must be aware of what plans are at issue and are to be divided by the court. For questions concerning the Defined Benefit Plans call (801)-366-7770. For questions concerning the Defined Contribution Savings Plans, call (801)-366-7720.

**2. REQUIREMENTS**

The following requirements are necessary for URS to accept the DRO:

* The DRO must give the name and last known address of both the Member and the Alternate Payee. A separate addendum is required and must accompany a copy of the DRO submitted to URS with the requisite Social Security numbers and dates of birth.
* The DRO must be properly issued by a court of competent jurisdiction of the State of Utah. Any DRO issued by another state must be domesticated in Utah.
* The DRO submitted to URS must be a certified copy.
* The DRO must include the information requested which is contained in brackets [ ] Model Order. In some instances, there will be an “or” between two sets of brackets, only provide information for the appropriate bracket. Remove the brackets in the Model Order before submitting the proposed DRO. Failure to provide the required information may result in a rejection of your DRO and delay the completion of the process. Language in *italics* in the Model Order is for direction only; this language does not need to be included in the DRO. Remove the language in italics in the Model Order before submitting the proposed DRO.
* All of the information in the Model Order must be fully provided in order for the DRO to be valid.
* The DRO will not be approved until all provisions are acceptable to URS.

**3. LIMITATIONS ON ORDER**

 There are a number of paragraphs in the “Limitations of this DRO” section of the Model Order. All of the limitations must be included within the DRO for it to be valid. In addition, pursuant to U.C.A. § 49-11-612 (4)(c)(i) once an Alternate Payee begins receiving monthly payments from the defined benefit plan pursuant to the DRO, the amount to be paid or the period for which payments are being made under the original domestic relations order may not be altered.

**4. SPECIAL CONSIDERATIONS**

* A DRO filed with URS may modify the benefit option chosen at retirement.
* If a Member dies prior to retirement, to be considered a surviving spouse of a Member for purposes of a benefit an Alternate Payee must have a valid DRO on file with URS before the Member’s death date in accordance with U.C.A. § 49-11-612.
* Pursuant to U.C.A. § 49-11-1401 an Alternate Payee will forfeit any benefit under a DRO if the Member/Employee has a forfeiture of retirement benefits for employment related felony convictions.

**5. PRELIMINARY APPROVAL**

In order to ensure that the proposed DRO will be acceptable, it is suggested that you forward a draft of the proposed DRO to URS prior to submitting it to the court. Proposed DROs can be sent via mail to the Defined Benefit Department, P.O. Box 1590, Salt Lake City, UT 84110-1590, via fax to 801-245-7701, or email DB.DRO@urs.org. Deficiencies in the proposed DRO can be corrected prior to having it signed by a Judge.

**6. FINAL APPROVAL**

URS will send a letter of acceptance to both the Participant and the Alternate Payee when URS officially determines an order qualifies as a DRO. After a Judge has signed an acceptable DRO, URS must receive a certified copy to be valid. Certified copies may be sent via mail to the Defined Benefit Department, P.O. Box 1590, Salt Lake City, UT 84110-1590, via fax to 801-366-7733 or hand delivered to 560 East 200 South, Salt Lake City, Utah 84102.

Please note that if URS receives a DRO signed by the Judge which does not meet URS requirements it will be rejected by URS.

*(MODEL DRO FOR MEMBERS OF URS DEFINED BENEFIT PLAN)*

[NAME

ADDRESS

PHONE NUMBER

EMAIL ADDRESS OF PERSON

PREPARING THIS DOCUMENT]

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| --- |
| **IN THE \_\_\_\_\_\_\_\_\_\_\_\_JUDICIAL DISTRICT COURT,****IN AND FOR THE COUNTY OF \_\_\_\_\_\_\_\_\_ STATE OF UTAH** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, **Plaintiff,**v.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,**Defendant.** | **DOMESTIC RELATIONS ORDER URS DEFINED BENEFIT PLAN****Case No**.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Judge**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

This Order is intended to meet the requirements of a “Domestic Relations Order” (“DRO”) relating to the Defined Benefit Plans (“Plans”) administered by the Utah Retirement Systems (“URS”.) The DRO is made pursuant to U.C.A. § 49-11-612, and rules promulgated there under.

Plaintiff is represented [PRO SE] *or* [ATTORNEY NAME], whose address is [ADDRESS], whose phone number is [PHONE NUMBER], whose fax number is [FAX NUMBER] and whose email address is [EMAIL ADDRESS]. Defendant is represented by [PRO SE] or [ATTORNEY NAME], whose address is [ADDRESS], whose phone number is [PHONE NUMBER], whose fax number is [FAX NUMBER], and whose email address is [EMAIL ADDRESS].

**BACKGROUND INFORMATION**

[MEMBER’S NAME] is a Member (“MEMBER”) of the Defined Benefit Plans of the Utah Retirement Systems (“URS”), administered by the URS, whose last known address is [MEMBER’S COMPLETE ADDRESS]. The Member’s date of birth and Social Security Number have been provided under separate private addendum.

[ALTERNATE PAYEE’S NAME] is the Alternate Payee (“Alternate Payee”) whose last known address is [ALTERNATE PAYEE’S COMPLETE ADDRESS]. The Alternate Payee’s date of birth and Social Security Number have been provided under separate private addendum.

The Member and the Alternate Payee were married on [DATE OF MARRIAGE]. The Member and Alternate Payee were divorced as of [DATE OF DIVORCE] pursuant to a Decree of Divorce entered in the case of [CASE NAME AND NUMBER].

The Member is entitled to retirement benefits under the Defined Benefit Plan.

**IT IS HEREBY ORDERED THAT:**

***(Choose the Sections that are applicable.)***

**I. MONTHLY BENEFITS**

1. URS shall distribute benefits under the Defined Benefit Plan as follows:

***(Choose A or B; only include the option that applies)***

A. The Alternate Payee is awarded [\_\_\_%] of the Member’s benefits accrued during the marriage. This percentage is to be used in the following formula:

 Years of Credited Service

 Accrued During Marriage

 -------------------------------------------- X % Awarded by Court = Alternate Payee’s Portion

 Total Years of Retirement Credit

 The Alternate Payee’s share of the Member’s accrued benefits shall be converted to an actuarially equivalent amount based on the life expectancy of the Alternate Payee for their life.

**OR *(Choose only one)***

B. The Alternate Payee is awarded [$\_\_\_] *or* [\_\_%] of the Member’s total benefits. The Alternate Payee’s share of the Member’s accrued benefits shall be converted to an actuarially equivalent amount based on the life expectancy of the Alternate Payee for their life.

2.If the Member elects a Partial Lump Sum Option (PLSO) at the time of retirement and the Alternate Payee is to receive a percentage of the monthly benefit, the Alternate Payee will receive the same percentage of the PLSO. The Alternate Payee will not receive a portion of the PLSO if the Alternate Payee is to receive a specific dollar amount.

3. For Members of the Tier I Public Employees’ Contributory or Noncontributory System(s) and the Tier II Public Employees’ and Public Safety and Firefighter Contributory Hybrid System(s) who divorce after retirement and elected a continuing spousal benefit for the Alternate Payee at the time of retirement, the actuarial present value of the remaining payments under the current option will be determined as of the effective date of the DRO. Based on the court ordered percentage, this amount is then divided between the two parties, and then converted to two separate life annuities, one for the Member and one for the Alternate Payee. The continuing spousal benefit will no longer be payable. At the Member’s death, the amount of the monthly benefit being paid to the Alternate Payee will not change. At the Alternate Payee’s death, the amount of the monthly benefit being paid to the Member will not change.

**II. ESTABLISHMENT OF BENEFITS**

URS shall begin monthly payments to the Alternate Payee when the Alternate Payee files with URS the appropriate form and the earliest of the following occurs:

1. The Member terminates employment, qualifies for retirement, and applies for benefits; or

2. The month following receipt of an acceptable DRO by URS when the Member is currently retired and receiving benefits under the Plan.

**III. DURATION OF PAYMENTS TO ALTERNATE PAYEE**

 After monthly payments begin to an Alternate Payee, URS shall cease payments at the death of the Alternate Payee. The Alternate Payee’s portion does not revert to the Member.

**IV. MEMBER WITHDRAWS FROM RETIREMENT SYSTEM**

 ***(Choose A or B; only include the option that applies)***

A. If the Member discontinues employment and withdraws the Member’s account in a lump sum, the Alternate Payee shall receive [ \_\_%] of the Member account which accrued during the marriage. The percentage is to be used in the following formula:

Years of Credited Service

Accrued During Marriage

-------------------------------------------- X % Awarded by Court = Alternate Payee’s Portion

Total Years of Retirement Credit

***OR (Chose only one)***

B. If the Member discontinues employment and withdraws the Member account in a lump sum, the Alternate Payee shall receive [$\_\_ ] or [ \_\_% ] from the Member’s account balance [accumulated with interest (if Plan permits) from [DATE OF DIVORCE] until the withdrawal is paid]. (*PLEASE NOTE: The dollar amount in this option cannot exceed the Member’s account balance.)*

**V. DEATH OF MEMBERS**

1. If the Member dies prior to retirement and a continuing monthly benefit is created by the death of the Member, the Alternate Payee shall receive such portions of that benefit as granted under Section I – Monthly Benefits if the Alternate Payee meets the definition of surviving spouse pursuant to U.C.A. § 49-11-102(51), which requires that a valid DRO is on file with URS prior to the Member’s death date.

2. If the Member dies prior to retirement and a refund of the contribution account is part of the death benefit, the Alternate Payee’s share will be calculated in accordance with Section IV – Member Withdraws from the Retirement System.

3. If the Member dies prior to retirement and a lump sum death benefit is payable pursuant to U.C.A. §§ 49-12-501, 49-13-501, 49-14-501, 49-15-501, 49-16-501, 49-17-501, 49-18-501, 49-19-501, 49-22-501 or 49-23-501. URS shall distribute benefits as follows:

***(Chose only one, A or B.)***

***(Please note: If there is no percentage indicated for either A or B the Alternate Payee shall not be entitled to any portion of the lump sum death benefit.)***

A. If the Member dies prior to retirement, and a death benefit is payable in a lump sum, the Alternate Payee is awarded [\_\_%] of the Member’s benefits accrued during the marriage. This percentage is to be used in the following formula:

Years of Credited Service

Accrued During Marriage

-------------------------------------------- X % Awarded by Court = Alternate Payee’s Portion

Total Years of Retirement Credit

B. The Alternate Payee shall receive [ \_% ] of the lump sum death benefit.

**VI. LIMITATIONS OF THIS DRO**

1. The provisions of this DRO shall not apply to long term disability benefits that the participating Member may be entitled to receive.
2. If the Alternate Payee dies prior to when monthly benefits should have begun based upon the effective date established by URS under this DRO, the Member’s benefit will not be reduced by this DRO.
3. If the Alternate Payee dies after monthly benefits should have or have begun based upon the effective date established by URS under this DRO, the Alternate Payee’s portion of the benefit does not revert to the Member.
4. The Alternate Payee may not assign his/her rights to benefits under this DRO.
5. Nothing contained in this DRO shall be construed to require any Plan or Plan administrator:

1. To provide to the Alternate Payee any type or form of benefit or any option not otherwise available to the Member under any Plan.

2. To provide the Alternate Payee benefits, as determined on the basis of actuarial value, not available to the Member.

3. To pay any benefits to the Alternate Payee which are required to be paid to another Alternate Payee under another order determined by the Plan administrator to be a DRO.

4. To provide the Alternate Payee a benefit or interest which exceeds the value of the account.

1. If a Member or Alternative Payee receive any distribution that should not have been paid under this DRO, the Member or Alternate Payee is designated a constructive trustee for the amount received and shall immediately notify URS and comply with written instructions as to the distribution of the amount received.
2. The Alternate Payee is ordered to report any payments received on any applicable income tax return in accordance with the Internal Revenue Code provisions or regulations in effect at the time any payments are issued by URS. URS will issue applicable tax forms on any direct payment made to the Alternate Payee. The Member and Alternate Payee must comply with Internal Revenue Code and any applicable regulations.
3. The Alternate Payee is ordered to provide the plan prompt written notification of any changes in the Alternate Payee’s mailing address. URS shall not be liable for failing to make payments to the Alternate Payee if URS does not have a current mailing address for the Alternate Payee at the time of payment.
4. Once an Alternate Payee begins receiving monthly payments from the URS defined benefit plan pursuant to the DRO, the amount to be paid or the period for which payments are being made under the original DRO may not be altered.
5. Pursuant to U.C.A. § 49-11-1401 an Alternate Payee will forfeit any benefit under a DRO if the Member/Employee has a forfeiture of retirement benefits for employment related felony convictions.
6. A certified copy of this DRO shall be furnished to URS.
7. The Court retains jurisdiction to amend this DRO so that it will constitute a DRO under the defined benefit plan even though all other matters incidental to this action or proceeding have been fully and finally adjudicated. If URS determines at any time that changes in the law, the administration of the plan, or any other circumstances make it impossible to calculate the portion of a distribution awarded to an Alternate Payee by this DRO and so notifies the parties, either or both parties shall immediately petition the Court for an amended DRO.

**END OF DOCUMENT**

**COURT SIGNATURE CAN BE FOUND AT THE TOP OF THE FIRST PAGE**

**Approved Domestic Relations Order**
*Defined Benefit / Defined Contribution Savings Plans*

 **PRIVATE SEPARATE ADDENDUM »** This addendum must accompany all
 proposed domestic relations orders submitted to URS for pre-approval or approval.

**Case Name:** v.

**County/City and Court:**

**Case No.:**

**Member Name:**

**Social Security Number:** **Date of Birth:**

**Phone Number:** **Email :**

**Former Spouse Name:**

**Social Security Number:** **Date of Birth:**

**Phone Number:** **Email :**

*This information has been provided by:*

**Signature:**

**Print Name:**

**Address:**
**Phone Number:**