

**EXAMPLE B – TRS SAMPLE FAMILY LAW ORDER
APPLIES TO ACTIVE TRS MEMBERS (NOT RETIRED) AND
PROVIDES FOR A FIXED AMOUNT DISTRIBUTION
(NOT A LIFETIME BENEFIT TO THE ALTERNATE PAYEE)**

IN THE MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

) Cause No. _____
)
) **FAMILY LAW ORDER**
)
)
)

This Court, having entered a Final Decree and Dissolution of Marriage in the above-captioned proceeding on _____, _____, 20____, and having jurisdiction of the parties and subject matter hereof,

IT IS HEREBY ORDERED:

As authorized by §19-20-305, MCA, this Family Law Order (FLO) requires the Montana Teachers' Retirement System (TRS) to direct payment of a portion of the retirement benefit, otherwise payable to the Participant, to the Alternate Payee. This FLO is issued, pursuant to Title 40, MCA, as (mark only one)

___ a disposition of marital property, **or**
___ an order for spousal support.

1. THE PARTIES

A. Participant: _____ is an active or inactive TRS member.

The Participant's full legal name, address, social security number, phone number, and birth date are:

Name:

Address:

SSN:

Phone number:

Birth Date:

B. Alternate Payee: _____ is the ex-spouse of the Participant and is entitled to a portion of the Participant's retirement benefits or refunded accumulated contributions as marital property or as spousal support, as specified above.

The Alternate Payee's full legal name, address, social security number, phone number, and birth date are:

Name:

Address:

SSN:

Phone number:

Birth Date:

2. ALTERNATE PAYEE'S RIGHT TO DISTRIBUTION

A. Service or Early Retirement. If the Participant receives a service or early retirement benefit, TRS shall distribute to the Alternate Payee a portion of each monthly benefit payment otherwise payable to the Participant (and payable to the Participant's joint annuitant or beneficiary if specified in section 3(B)). The portion of the monthly benefit to be distributed to the Alternate Payee will be (mark/complete only one):

- i. ___ Calculated as a percentage of the monthly benefit amount, including a proportionate share of any guaranteed annual benefit adjustment applied to the benefit. The percentage of the monthly benefit amount to be distributed to the Alternate Payee (complete only one):
 - a. ___ will be _____ %; **or**
 - b. ___ will be calculated as _____ % multiplied by the number of years of creditable service earned during the term of the marriage (_____ years) divided by the total number of years of creditable service used to calculate the Participant's retirement benefit.
- ii. ___ A fixed dollar amount of \$_____ per month. (The fixed dollar amount to be distributed to the Alternate Payee may not exceed 50% of the normal form service or early retirement benefit amount estimated to be payable to the Participant on the date of TRS's approval of this FLO. If the Participant is not then eligible for an early or a service retirement benefit, the normal form benefit will be estimated as of the Participant's first date of eligibility for an early or service retirement benefit. The estimate will be based only on the creditable service and compensation credited to the Participant as of the date of the estimate.)

B. Disability Retirement. If the Participant receives a disability retirement benefit, TRS shall distribute to the Alternate Payee a portion of each monthly benefit payment otherwise payable to the Participant (and payable to the Participant's joint annuitant or beneficiary if specified in section 3(B)). The portion of the monthly benefit distributed to the Alternate Payee will be determined as described in section 2(A).

C. Death Benefit. In the event of the Participant's death before retirement, TRS shall distribute to the Alternate Payee a portion of the Participant's accumulated contributions account balance. The portion of the account balance distributed to the Alternate Payee (mark/complete only one):

- i. ___ will be _____ %;
- ii. ___ will be calculated as _____ % multiplied by the number of years of creditable service earned during the term of the marriage (_____ years) divided by the total number of years of creditable service credited to the Participant at the time of death; or
- iii. ___ will be a fixed dollar amount of \$_____. (The fixed dollar amount ordered to be distributed to the Alternate Payee may not exceed 100% of the Participant's accumulated contributions account balance on the date that TRS approves this FLO.)

D. Withdrawal of Accumulated Contributions. If the Participant withdraws his/her accumulated contributions from TRS, TRS shall distribute to the Alternate Payee a portion of the Participant's accumulated contributions account balance. The portion of the account balance distributed to the Alternate Payee (mark/complete only one):

- i. ___ will be _____ %;
- ii. ___ will be calculated as _____ % multiplied by the number of years of creditable service earned during the term of the marriage (_____ years) divided by the total number of years of

creditable service credited to the Participant at the time of withdrawal; or

- iii. ___ will be a fixed dollar amount of \$_____. (The fixed dollar amount ordered to be distributed to the Alternate Payee may not exceed 100% of the Participant's accumulated contributions account balance on the date that TRS approves this FLO.)

3. DURATION OF DISTRIBUTIONS TO ALTERNATE PAYEE

A. Beginning Date of Distributions. Distributions to the Alternate Payee will become payable on the effective date determined as set forth in section 5. Monthly benefits to the Participant and monthly distributions to the Alternate Payee will be made on the last business day of each month.

B. Duration and Termination of Distributions. Unless the distribution payable to the Alternate Payee terminates earlier pursuant to (C), monthly distributions payable to or on behalf of the Alternate Payee shall be made (mark/complete only one):

- i. ___ for the lifetime of the Participant only, **or**
- ii. ___ for the lifetime of the Participant and then, upon the death of the Participant, for the period of time that benefits continue to be paid to the Participant's joint annuitant or beneficiary, **or**
- i. ___ for a period of _____ months, except that distribution to the Alternate Payee will cease when benefits are no longer payable to or on behalf of the Participant even if benefits have not been paid to the Alternate Payee for the designated number of months.

C. Termination of Distributions Upon Death of Alternate Payee. Unless the Alternate Payee is authorized to designate a beneficiary pursuant to section 4(A)(ii), the distribution payable to the Alternate Payee shall terminate upon the death of the Alternate Payee and will revert to the Participant or to the Participant's joint annuitant or beneficiary then receiving benefits.

D. No Distribution Required to Alternate Payee for Any Period Prior to Effective Date.

This FLO does not require, and TRS will not make, any distribution to the Alternate Payee for any period of time prior to the effective date of this FLO, as determined by TRS.

E. Adjustment, Suspension or Termination of Benefits. If the benefits payable to or on behalf of the Participant are adjusted, suspended, or terminated by TRS for any reason, the distribution required to be made to the Alternate Payee will also be adjusted, suspended, or terminated as appropriate. If the Participant's benefits are suspended, at the time benefits are reinstated, the amount payable to the Alternate Payee will again be determined in conformity with this FLO.

4. DESIGNATION OF BENEFICIARY BY ALTERNATE PAYEE

A. Designation of Beneficiary. The Alternate Payee (mark only one):

- i. ___ May not designate a beneficiary to receive, upon the Alternate Payee's death, any distributions that would otherwise be payable to the Alternate Payee under this FLO. The distribution payable to the Alternate Payee will terminate upon the Alternate Payee's death and will revert to the Participant or to the Participant's joint annuitant or beneficiary then receiving benefits.

OR

- ii. ___ May designate a beneficiary to receive, upon the Alternate Payee's death, any distributions that would otherwise be payable to the Alternate Payee. The Alternate Payee must designate

a beneficiary using a form provided by TRS and in conformity with TRS requirements. If the Alternate Payee does not have a valid beneficiary designation on file with TRS at the time of the Alternate Payee's death, or if the Alternate Payee's designated beneficiary has predeceased the Alternate Payee, the distribution payable to the Alternate Payee will terminate upon the death of the Alternate Payee and will revert to the Participant or to the Participant's joint annuitant or beneficiary then receiving benefits. Upon the death of the Alternate Payee's designated beneficiary, the distribution payable on behalf of the Alternate Payee will terminate and will revert to the Participant or to the Participant's joint annuitant or beneficiary then receiving benefits.

B. No Other Transfer of Distribution Allowed. The distribution payable to or on behalf of the Alternate Payee may not be devised, bequeathed, assigned or otherwise transferred by the Alternate Payee or by the Alternate Payee's designated beneficiary.

5. APPROVAL BY TRS / EFFECTIVE DATE OF FLO / FUTURE AMENDMENTS

A. Approval by TRS. One of the parties must provide TRS with a certified copy of this FLO and TRS must approve the FLO before the FLO is effective. In the event TRS finds that this FLO does not meet all requirements to be given effect, TRS shall provide a statement of the deficiencies to the parties to the FLO. Upon TRS's identification of any deficiency, it is the obligation of the parties to insure that a FLO that meets all TRS requirements is submitted to and entered by this Court. This Court retains jurisdiction to make any modifications necessary to insure the distribution of benefits required under this FLO is in compliance with all requirements of TRS.

B. Effective Date of FLO. This FLO will be effective the first day of the month following receipt and approval by TRS. The terms of the FLO will given effect at such time as any benefit or withdrawal, as described in Section 2, becomes payable to or on behalf of the Participant.

C. Future Amendments. Except as provided in (D), this FLO may be modified or revoked only by subsequent order of this Court. This Court retains jurisdiction to make such modification or revocation.

D. Voluntary Renunciation by Alternate Payee. The Alternate Payee may, at any time, renounce the Alternate Payee's right to receive any further or future distribution under this FLO by making a voluntary, written renunciation, with notarization, and filing the renunciation with this Court. A renunciation must be made on a form provided by TRS and must constitute a full renunciation of all further right and interest of the Alternate Payee to any distribution under this FLO; a renunciation may not otherwise modify or amend the terms of this FLO. A certified copy of the renunciation filed with this Court must be submitted to TRS and will be effective the first day of the month following receipt by TRS.

E. Effect of Death of Participant Prior to Effective Date of FLO. If, at the time this FLO is submitted to TRS, the Participant is deceased and benefits are then payable to the Participant's beneficiary, TRS will not approve or give effect to this FLO. TRS will notify the Alternate Payee and the Participant's beneficiary of the submission of the FLO and the reason for disapproval. TRS will then only approve and give effect to a FLO entered by this Court as an adjudication of the respective rights and interests of the Alternate Payee and the Participant's joint annuitant or beneficiary, who must be the named parties on the FLO. The Alternate Payee will be responsible for obtaining the necessary court order.

6. AUTHORIZATION TO DISCLOSE INFORMATION

TRS may receive from and disclose to either or both the Participant and the Alternate Payee any information necessary and appropriate to give effect to this FLO.

7. REQUIREMENT TO UPDATE CONTACT / BENEFICIARY INFORMATION

The Alternate Payee will have the responsibility to maintain the Alternate Payee’s current contact information with TRS and to ensure that a valid beneficiary designation is on file with TRS if the Alternate Payee is authorized to designate a beneficiary.

8. CONSTRUCTION IN CONFORMITY WITH APPLICABLE LAW

This FLO is intended to provide for a distribution of benefits to the Alternate Payee in conformity with all applicable laws pertaining to the provision of benefits by TRS. It is not intended to provide additional rights or benefits to any party beyond those rights provided in law. This FLO will be construed by TRS in such a manner as gives effect to all applicable statutes and rules, whether expressly referenced herein or not.

SO ORDERED this _____ day of _____, 20 _____.

DISTRICT COURT JUDGE

Attorney for Participant

Name:
Firm:
Address:
Phone No.:

Attorney for Alternate Payee

Name:
Firm:
Address:
Phone No.