

**EXAMPLE C – TRS SAMPLE FAMILY LAW ORDER
APPLIES TO
RETIRED PARTICIPANT WHO ELECTED A NORMAL FORM BENEFIT**

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 distribute 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 maintenance.

1. THE PARTIES

A. Participant: _____ is a retired TRS member who retired effective _____ 1, _____, and elected a NORMAL FORM retirement benefit.

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 as marital property or as spousal maintenance, as specified above.

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. Distribution Amount. TRS shall distribute to the Alternate Payee a portion of each monthly benefit payment that is otherwise payable to the Participant. The portion of the monthly benefit to be distributed to the Alternate Payee will be (mark only one):

- i. ___ A percentage share of the monthly benefit payable to the Participant, including a proportionate share of any guaranteed annual benefit adjustment applied to the benefit. The percentage share of the monthly benefit amount to be distributed to the Alternate Payee is _____%; **or**
- ii. ___ A fixed amount of \$_____ per month, not to exceed 100% of the monthly benefit amount payable to the Participant on the date of TRS's approval of this FLO.

B. Distribution of Refund of Remainder of Accumulated Contributions. If the Participant dies before the total monthly benefits that have been paid are at least equal to the Participant's accumulated contributions account balance at the time of retirement, and the Alternate Payee remains entitled to a distribution under (A), TRS shall distribute to the Alternate Payee a portion of the refund of the remaining accumulated contributions account balance. The portion of the account balance to be distributed to the Alternate Payee will be equal to the percentage designated in (2)(A)(i) or equal to the percentage that the fixed amount designated in (2)(A)(ii) is to the monthly benefit amount then payable to the Participant.

C. No Modification of Retirement Elections / No Limitation on Participant's Right to Designate Beneficiaries. The Participant's original election of a retirement benefit option may not be and is not modified by this FLO. The Alternate Payee's right to receive a portion of the Participant's TRS retirement benefit is fully set forth in this FLO. The Participant is free to designate any individual (or make any other beneficiary designation allowed by TRS) to receive any portion of the Participant's benefits remaining after the Participant's death that are in excess of the benefits payable to the Alternate Payee under this FLO.

3. DURATION OF DISTRIBUTION TO ALTERNATE PAYEE

A. Beginning Date of Distribution. The requirement for distributions to the Alternate Payee will be effective on the effective date of this FLO determined as set forth in section 5. Benefits to the member are actually paid, and distributions to the Alternate Payee will be made, on the last business day of each month.

B. Duration and Termination of Distribution. Unless the distribution to the Alternate Payee terminates earlier pursuant to (C), the distribution to the Alternate Payee shall be payable (mark/complete only one):

- i. ___ for the lifetime of the Participant, **or**
- ii. ___ for a period of _____ months, except that distributions to the Alternate Payee will cease upon the death of the Participant even if benefits have not been paid to the Alternate Payee for the designated number of months.

C. Termination of Distribution Upon Death of Alternate Payee. Unless the Alternate Payee is authorized to designate a beneficiary pursuant to section 4(A)(ii), the distribution to the Alternate Payee shall terminate upon the death of the Alternate Payee and will revert to the Participant.

D. No Distribution 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.

E. Adjustment, Suspension or Termination of Benefits. If the benefits payable to the Participant are adjusted, suspended, or terminated by TRS for any reason, the distribution to the Alternate Payee will also be adjusted, suspended, or terminated, as appropriate. If 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 distribution that would otherwise be payable to the Alternate Payee. The distribution to the Alternate Payee will terminate upon the Alternate Payee's death and will revert to the Participant.

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 to the Alternate Payee will terminate upon the death of the Alternate Payee and will revert to the Participant. A distribution payable to the Alternate Payee's designated beneficiary will terminate upon the death of the Alternate Payee's designated beneficiary and will revert to the Participant.

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, or in any other manner.

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 will be 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, and then submitted to TRS. This Court retains jurisdiction to make any modifications necessary to insure the distribution of benefits required under this FLO is in compliance with all of TRS's requirements.

B. Effective Date of FLO. This FLO will be effective the first day of the month following receipt and approval by TRS.

C. Future Amendments. Except as provided in (D), this FLO may be revoked or modified only by a subsequent order of this Court. This Court retains jurisdiction to make such modifications 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 the Participant dies prior to the effective date of this FLO, this FLO shall be null and void.

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 is responsible to maintain the Alternate Payee's current contact information with TRS, and to maintain a valid beneficiary designation with current contact information for the beneficiary 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, rules, and policies pertaining to the provision of benefits by TRS. It is not intended to provide additional rights or benefits to any party beyond those rights or benefits provided by TRS law. This FLO will be construed by TRS in such a manner as gives effect to all applicable laws, rules, and policies, 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.