

**EXAMPLE A – TRS SAMPLE FAMILY LAW ORDER
 APPLIES TO ACTIVE AND INACTIVE MEMBERS (NOT RETIRED) AND
 PROVIDES FOR AN ACTUARIALLY EQUIVALENT BENEFIT DISTRIBUTION TO ALTERNATE PAYEE
 (PAYABLE FOR THE LIFETIME OF THE ALTERNATE PAYEE)**

IN THE MONTANA _____ JUDICIAL DISTRICT COURT
 _____ COUNTY

)
) Cause No. _____
)
) **FAMILY LAW ORDER**
) **RE BENEFITS PAYABLE BY THE**
) **MONTANA TEACHERS' RETIREMENT SYSTEM**
)

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 a retirement benefit or refund of accumulated contributions, 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 an active or inactive TRS member.

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 benefit or refunded accumulated contributions as marital property or as spousal support, 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. DISTRIBUTION REQUIRED TO ALTERNATE PAYEE – ACTUARIALLY EQUIVALENT

BENEFIT

A. Service, Early, or Disability Retirement Benefit. If Participant receives a service, early, or disability retirement benefit, TRS shall transfer a portion of the Participant's normal form retirement benefit to the Alternate Payee, and shall actuarially adjust the transferred portion to pay a monthly benefit for the Alternate Payee's lifetime (hereinafter referred to as an "actuarially equivalent benefit").

- i. The portion of the normal form retirement benefit transferred to the Alternate Payee (mark/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 Participant's total number of years of creditable service at the time this FLO is given effect.
- ii. The actuarially equivalent benefit will include a proportionate share of any guaranteed annual benefit adjustment applied to the Participant's benefit.
- iii. The portion of the Participant's normal form benefit transferred to the Alternate Payee will not revert to the Participant upon the death of the Alternate Payee.

B. Death Benefit. In the event of the Participant's death before retirement, TRS shall make a lump-sum distribution to the Alternate Payee of a portion of the Participant's accumulated contributions account balance. If the Participant is vested at the time of his/her death, the Alternate Payee may elect to receive an actuarially equivalent benefit in lieu of a lump-sum distribution of a portion of the accumulated contributions. The portion of the accumulated contributions or the actuarially equivalent benefit distributed to the Alternate Payee will be the percentage determined as described in (A).

C. Withdrawal of Accumulated Contributions. If the Participant withdraws his/her accumulated contributions from TRS, TRS shall make a lump-sum distribution to the Alternate Payee of a portion of the Participant's accumulated contributions account balance. The portion of the accumulated contributions account balance distributed to the Alternate Payee will be the percentage determined as described in (A).

3. DURATION OF DISTRIBUTION TO ALTERNATE PAYEE

A. Beginning Date of Distributions. Distributions to or on behalf of the Alternate Payee will become payable on the date this FLO is given effect as described in section 5(B).

B. Duration and Termination of Actuarially Equivalent Benefit – No Reversion to Participant. In every case, an actuarially equivalent benefit payable to the Alternate Payee will terminate upon the death of the Alternate Payee. The portion of the Participant's normal form benefit distributed to the Alternate Payee as an actuarially equivalent benefit will not revert to the Participant upon the death of the Alternate Payee.

C. Death of Alternate Payee before Distribution. If the Alternate Payee is not authorized to designate a beneficiary under section 4(a)(ii) and dies before any distribution has been made pursuant to this FLO, this FLO shall be revoked and shall have no further force or effect.

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 described in section 5(B).

E. Adjustment, Suspension or Termination of Benefits. If the benefit payable to or on behalf of the Participant is 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 benefit is suspended or terminated, at the time the benefit is reinstated, the distribution 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 under this FLO. **OR**
- ii. ___ May designate a beneficiary to receive a distribution otherwise payable to the Alternate Payee, subject to all of the following:
 - a. A beneficiary designated by the Alternate Payee shall only be eligible to receive a distribution otherwise payable to the Alternate Payee if the Alternate Payee dies before any distribution is made to the Alternate Payee pursuant to this FLO. Upon any distribution to the Alternate Payee, a beneficiary designation made by the Alternate Payee is revoked and shall be of no further force or effect.
 - b. A beneficiary designated by the Alternate Payee is not eligible to receive any distribution payable to the Alternate Payee as an actuarially equivalent benefit. If a distribution is payable to a beneficiary designated by the Alternate Payee at the time this FLO is given effect, the designated beneficiary shall receive only a lump-sum distribution of a portion of the Participant's accumulated contributions account balance determined and paid as if the Participant elected to withdraw his/her accumulated contributions as described in section 2(C).
 - c. 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 does not survive at the time this FLO is given effect, this FLO shall be void and shall have no further force or effect. The portion of the benefit payable to the Alternate Payee will revert to the Participant or to the Participant's joint annuitant or beneficiary then eligible to receive benefits.

B. No Other Transfer of Distribution Allowed. Except as expressly provided in (A), the Alternate Payee may not devise, bequeath, assign or otherwise transfer any right or interest in or to any distribution or to payment of any distribution payable to or on behalf of the Alternate Payee under this FLO. A beneficiary designated by the Alternate Payee may not devise, bequeath, assign or otherwise transfer any right or interest in or to any distribution or payment of any distribution payable under this FLO.

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 on the first day of the month following receipt and approval by TRS, and will be kept on-file by TRS until the terms of the FLO are to be given effect. The terms of this FLO will be given effect at such time, after the effective date of the FLO, that a retirement benefit or a refund of accumulated contributions, as described in Section 2, becomes payable to or on behalf of the Participant.

C. Future Amendments. Except as provided in this FLO, 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 before a distribution is made pursuant to this FLO, renounce the Alternate Payee's right to receive a 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 joint annuitant or 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.