**Section 1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)**

a) Definitions

1) The definitions in Section 1-119(a) of the Illinois Pension Code (Code) [40 ILCS 5] shall apply to this Section.

2) "Death Benefit" in Section 1-119(a)(2) of the Code includes a lump sum payment described in Sections 14-116, 14-117 and 14-128 of the Code.

3) "Member's Refund" in Section 1-119(a)(5) of the Code does not include an error refund as defined in subsection (a)(4) of this Section.

4) "Error Refund" as used in this Section includes:

A) a refund paid to a member as the result of an error in a payment to the System;

B) an interest rebate; or

C) a refund paid to a member as the result of the member's failing to complete the required contributions necessary to purchase or reinstate service credit.

5) "Disability Benefit" in Section 1-119(a)(3) of the Code includes:

A) an occupational disability benefit under Section 14-123 of the Code;

B) a temporary disability benefit under Section 14-123.1 of the Code; or

C) a nonoccupational disability benefit under Section 14-124 of the Code.

6) "Member's Retirement Benefit" as used in this Section means the total amount of the retirement benefit as defined in Section 1-119(a)(8) of the Code that would be payable to the member in the absence of a QILDRO.

7) "Partial Member's Refund" as used in this Section includes:

A) a refund of widow/survivor benefit contributions;

B) a refund of alternative formula contributions as a result of the member not completing sufficient service to qualify for the alternative formula retirement benefit; or

C) a refund of early retirement contributions.

8) "Permissive Service" in Section 1-119(a)(5.5) of the Code includes credit purchased by the member for military service, leaves of absence, early retirement incentives, contractual service, federal or out-of-state service, visually handicapped service, legislative staff intern service and unused sick and vacation time.

9) "Regular Service" in Section 1-119(a)(7.5) of the Code includes service for which compensation was paid on a State payroll and purchased by the member for a qualifying period, short periods of employment, full or partial refund, emergency or temporary employment, and service credit where the member previously opted not to participate in the System and subsequently opted to purchase the service credit for the participation.

10) "Accelerated Retirement Benefit" means an accelerated pension benefit payment under Sections 14-147.5 and 14-147.6 of the Code.

b) Requirements for a Valid Qualified Illinois Domestic Relations Order

The System will accept a court order as a valid Qualified Illinois Domestic Relations Order, or QILDRO, that meets all of the following requirements:

1) The order must be accompanied by a $50 non-refundable processing fee, by check payable to the State Employees' Retirement System.

2) If the order applies to a person who became a member of the System before July 1, 1999, the order must be accompanied by the original Consent to Issuance of QILDRO signed by the member.

3) The order must be a certified copy of an original order dated on or after July 1, 1999.

4) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce such a property distribution, prior to the death of the member.

5) The order must contain the name, residence address, and Social Security number of the member.

6) The order must contain the name, residence address, and Social Security number of the alternate payee.

7) The order must identify the State Employees' Retirement System as the retirement system to which it is directed.

8) The order must express any amount to be paid to the alternate payee from a member's retirement benefit as a dollar amount per month or as a percentage per month.

9) The order must express any amount to be paid to the alternate payee from a member's refund or partial refund as a dollar amount or as a percentage of the refund.

10) The order must express any amount to be paid to the alternate payee from a member's death benefit as a dollar amount or as a percentage of the death benefit.

11) The order must apply only to benefits that are statutorily subject to QILDROs as provided in Section 1-119(b)(1) of the Code.

12) The order and, if applicable, the Consent to Issuance of QILDRO must be in the form adopted by the System.

13) No language may be added to, or omitted from, the QILDRO form or the consent form adopted by the System.

c) Requirement for a Valid QILDRO Calculation Court Order

The System will accept a court order as a valid QILDRO Calculation Court Order or as a QILDRO Calculation Court Order that meets all of the following requirements:

1) The order must be accompanied by a $50 non-refundable processing fee, with the check made payable to the State Employees' Retirement System.

2) The order must be a certified copy of an original order dated on or after July 1, 2006.

3) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce such a property distribution.

4) The order must contain the name, residence address, and Social Security number of the member.

5) The order must contain the name, residence address, and Social Security number of the alternate payee.

6) The order must identify the State Employees' Retirement System as the retirement system to which it is directed.

7) The order must apply only to benefits that are statutorily subject to QILDRO Calculation Court Orders as provided in Section 1-119(b)(1) of the Code.

8) The order must be in the form directed by Section 1-119 of the Code.

9) No language may be added to, or omitted from, the QILDRO Calculation Court Order form adopted by the System.

10) The QILDRO Calculation Court Order must not be completed in a manner that changes the intent of the QILDRO to which it relates.

d) Required Form

1) A QILDRO/QILDRO Calculation Court Order must be in the form directed by Section 1-119 of the Code. The required QILDRO/QILDRO Calculation Court Order form is available from the System upon request or in PDF at www.state.il.us/srs.

2) A QILDRO/QILDRO Calculation Court Order that is not in the form adopted by the System is invalid.

3) A Consent to Issuance of QILDRO must be in the form adopted by the System as of the date that the QILDRO is received. The required consent form is available from the System upon request or in PDF at www.state.il.us/srs.

4) A consent form that is not in the form adopted by the System is invalid.

e) Filing a QILDRO with the System

1) A QILDRO should be sent to the System's Springfield Office, accompanied by the consent form, if applicable, and a $50 non-refundable processing fee.

2) A QILDRO will be deemed received by the System on the date that it is received in the System's Springfield Office.

3) Within 45 calendar days after receipt of a QILDRO, the System will review the order and notify the member and each alternate payee by first class mail that it has received the order, and whether the order is a valid QILDRO. If the System determines that the order is not a valid QILDRO, the notice will specify the reason or reasons.

4) A QILDRO that has been modified by the issuing court should be submitted in the same manner as the original QILDRO. A separate $50 non-refundable processing fee is required for each modified QILDRO.

f) Filing a QILDRO Calculation Court Order with the System

1) A QILDRO Calculation Court Order should be sent to the System's Springfield Office, accompanied by a $50 non-refundable processing fee.

2) A QILDRO Calculation Court Order will be deemed received by the System on the date that it is received in the System's Springfield Office.

3) Within 45 calendar days after receipt of a QILDRO Calculation Court Order, the System will review the order and notify the member and each alternate payee by first class mail that it has received the order, and whether the order is a valid QILDRO Calculation Court Order. If the System determines that the order is not a valid QILDRO Calculation Court Order, the notice will specify the reason or reasons.

4) A QILDRO Calculation Court Order that has been modified by the issuing court should be submitted in the same manner as the original QILDRO Calculation Court Order. A separate $50 non-refundable processing fee is required for each modified QILDRO Calculation Court Order. A modified QILDRO Calculation Court Order will not affect the priority of the QILDROs on file.

g) Benefits Affected by a QILDRO

1) A QILDRO may apply only to the following benefits administered by the System:

A) a monthly retirement benefit;

B) a member's termination refund;

C) a member's partial refund;

D) a member's death benefit; and

E) a member's accelerated retirement benefit.

2) If a QILDRO specifies a dollar amount or percentage payable to an alternate payee from any partial member's refund that becomes payable, the aggregate amount paid to the alternate payee from all partial member's refunds shall not exceed the dollar amount or percentage specified in the QILDRO.

3) A QILDRO shall not apply to any of the following:

A) a reversionary annuity that becomes payable following the death of the member;

B) a survivor benefit;

C) any disability benefit;

D) an error refund; and

E) any other benefit paid under Article 14 of the Code not specifically listed in subsection (g)(1) of this Section.

4) If the space provided on the QILDRO form for the dollar amount or percentage the alternate payee is to receive from the member's retirement benefit, member's refund, partial member's refund or death benefit is left blank, then the alternate payee will receive no portion of the benefit or refund for which the space is left blank.

h) Effect of a Valid QILDRO

1) Retirement Benefit

A) After the System has determined that a QILDRO applying to a retirement benefit on a dollar basis is valid, one of the following will occur:

i) If the member has not yet started receiving benefits, the QILDRO will be placed in the member's file and will be implemented when the first affected benefit payment commences; or

ii) If the member is already receiving benefits subject to the QILDRO, payment to the alternate payee will begin with the first payment to the member occurring at least 30 days after the QILDRO is received.

B) After the System has determined that a QILDRO applying to a retirement benefit on a percentage basis is valid, that the member has not retired, and that a QILDRO Calculation Court Order will be needed, the following will occur:

i) Within 45 days, the System will provide the information required in Section 1-119(h)(1.5)(B) of the Code;

ii) When the member requests a retirement benefit, within 45 days after the System receives all information necessary to determine the actual benefit payable, the System will provide the information required in Section 1-119(h)(1.5)(C) of the Code; and

iii) When the member requests a retirement benefit and there is no QILDRO Calculation Court Order on file, the System will advise the member and alternate payee of the need for a QILDRO Calculation Court Order. The System will determine an anticipated payment to the alternate payee based on information in the QILDRO, if it is possible to do so. The System will hold the alternate payee's anticipated payment and pay the member's monthly retirement benefit, less the amount held for the alternate payee, pending receipt of the QILDRO Calculation Court Order. Once the QILDRO Calculation Court Order is received, the System will adjust the amounts payable in accordance with the QILDRO Calculation Court Order and begin paying the alternate payee. However, if it is not possible for the System to determine an anticipated payment based only on the QILDRO, then neither the member nor the alternate payee will be paid until the QILDRO Calculation Court Order is received.

C) After the System has determined that a QILDRO applying to a retirement benefit on a percentage basis is valid, and that the member is receiving a retirement benefit, the following will occur:

i) Within 45 days, the System will provide the information required in Section 1-119 (h)(1.5)(C) of the Code; and

ii) If there is no QILDRO Calculation Court Order on file, the System will advise the member and alternate payee of the need for a QILDRO Calculation Court Order. The System will determine an anticipated payment to the alternate payee based on information in the QILDRO, if it is possible to do so. The System will hold the alternate payee's anticipated payment and pay the member's monthly retirement benefit, less the amount held for the alternate payee, pending receipt of the QILDRO Calculation Court Order. Once the QILDRO Calculation Court Order is received, the System will adjust the amounts payable in accordance with the QILDRO Calculation Court Order and begin paying the alternate payee. However, if it is not possible for the System to determine an anticipated payment based only on the QILDRO, then neither the member nor the alternate payee will be paid until the QILDRO Calculation Court Order is received.

2) Refund or Partial Refund

A) After the System has determined that a QILDRO applicable to a member's refund or partial member's refund is valid, one of the following will occur:

i) If the QILDRO provides that the refund or partial refund will be allocated on a dollar amount basis and the member has not applied for a refund or partial refund, the QILDRO will be placed in the member's file and will be implemented when payment of the affected refund or partial refund is made;

ii) If the QILDRO provides that the refund or partial refund will be allocated on a percentage basis and a QILDRO Calculation Court Order is not on file when the member requests a refund or partial refund, the System will provide the refund or partial refund amount to the member and alternate payee and will advise of the need for a QILDRO Calculation Court Order. The System will hold the refund or partial refund until the QILDRO Calculation Court Order is received;

iii) If a refund application is pending when the System receives a QILDRO that purports to apply to the refund but the refund payment has not yet been vouchered, the System will hold the portion of the refund that would be payable to the alternate payee until it receives clarification from the court as to whether the QILDRO is effective against that pending refund. It is the member's or alternate payee's responsibility to obtain clarification from the court and to notify the System of the court's clarification; or

iv) If a refund payment has already been vouchered when the System receives a QILDRO that purports to apply to the refund, the QILDRO shall not be effective against that refund.

B) "Vouchered", as used in subsection (h)(2)(A), means that the

voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

3) Death Benefit

A) After the System has determined that a QILDRO applicable to a member's death benefit is valid, one of the following will occur:

i) If the QILDRO provides that the death benefit will be allocated on a dollar amount basis and if the System has not received notice of the member’s death, the QILDRO will be placed in the member's file and will be implemented when payment of the affected death benefit is made;

ii) If the QILDRO provides that the death benefit will be allocated on a percentage basis and a QILDRO Calculation Court Order is not on file when the System is notified of the death of the member, the System will provide the death benefit amount to the beneficiary on file and the alternate payee and will advise of the need for a QILDRO Calculation Court Order. The System will hold the death benefit until the QILDRO Calculation Court Order is received.

• If a death benefit application is pending when the System receives a QILDRO that purports to apply to the death benefit but the death benefit payment has not yet been vouchered, the System will hold the portion of the death benefit that would be payable to the alternate payee until it receives clarification from the court as to whether the QILDRO is effective against that pending death benefit. It is the alternate payee's responsibility to obtain clarification from the court and to notify the System of the court's clarification;

• If a death benefit payment has already been vouchered when the System receives a QILDRO that purports to apply to the death benefit, the QILDRO shall not be effective against that death benefit;

B) "Vouchered", as used in subsection (h)(3)(A), means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

4) Accelerated Retirement Benefit

A) For cases in which a valid QILDRO filed with the System grants prospective automatic annual increases to benefits of an alternate payee and the member subject to that QILDRO elects the accelerated retirement benefit under Section 14-147.6 of the Code, a supplemental order clarifying how the payment option is to be divided must be accepted before any of the retirement benefits payable to the member and alternative payee are vouchered. If no supplemental order was provided by or on behalf of the member subject to the QILDRO at the time he or she applies for the accelerated retirement benefit under Section 14-147.6, the System will advise of the need for a supplemental order. It is the member's or alternate payee's responsibility to obtain the supplemental order.

B) If a member subject to a valid QILDRO elects the accelerated retirement benefit under Section 14-147.5 of the Illinois Pension Code, a supplemental order clarifying how the accelerated retirement benefit is to be divided must be accepted by the System before any benefits payable to the member or the alternate payee may be vouchered. If no supplemental order was provided by or on behalf of the member subject to the QILDRO at the time he or she applies for the accelerated retirement benefit under Section 14-147.5, the System will advise of the need for a supplemental order. It is the member's or alternate payee's responsibility to obtain a supplemental order.

C) "Vouchered", as used in this subsection (h)(4), means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

i) Termination of QILDRO

The System will consider a QILDRO as having been terminated in any of the following situations:

1) Upon receipt of a certified copy of a court order terminating the QILDRO;

2) Upon payment of all amounts provided for in the QILDRO; or

3) When the person to whom the QILDRO applies ceases to be a member or annuitant of the System.

j) QILDROs Against Persons Who Became Members Prior to July 1, 1999

1) A QILDRO that applies to a person who became a member of the System prior to July 1, 1999, must be accompanied by the original Consent to Issuance of QILDRO signed by the member. If the original is unavailable, a certified copy of the consent form filed with the court that issued the QILDRO is acceptable in lieu of the original.

2) The Consent to Issuance of QILDRO must be in the form adopted by the System (including judicial district and county, case number and caption, member's name and SSN, alternate payee's name and SSN, member's signature and date) as of the date the QILDRO is received. A consent form that is not in the form adopted by the System is invalid.

3) In accordance with Section 1-119(m)(1) of the Code, a consent form must be signed by the member to whom the QILDRO applies. A consent form signed by a judge in lieu of the member is invalid.

k) Alternate Payee's Address

1) An alternate payee is responsible to report to the System in writing and in the form and manner prescribed by the System each change in their name and mailing address.

2) When a member's retirement benefit, refund or death benefit subject to a QILDRO becomes payable, the System will send notice to the last address of the alternate payee reported to the System that the benefit, refund or death benefit is payable. Other than sending such notice, the System shall have no duty to take any other action to locate an alternate payee.

3) The 180-day period during which the System will hold the retirement benefit, refund, or death benefit as provided in Section 1-119(e)(2) of the Code begins on the date that the notice described in subsection (j)(2) of this Section is sent to the last address of the alternate payee reported to the System, or on the date that the retirement benefit, refund, or death benefit becomes payable, whichever is later.

4) If the System does not receive written confirmation of the alternate payee’s current mailing address in the form and manner prescribed by the System within the 180-day period, then the System will pay the amounts held under Section 1-119(e)(2) of the Code to the regular payee.

5) If the System receives written confirmation of the alternate payee’s current mailing address in the form and manner prescribed by the System after the 180-day period, then the System will begin issuing applicable recurring benefit payments to the alternate payee in accordance with the QILDRO and QILDRO Calculation Court Orders on file with the System, but the alternate payee will have no right to any amounts already paid to the member.

l) Electing Form of Payment

1) A member's election either to receive or forego a proportional annuity under the Retirement Systems Reciprocal Act [40 ILCS 5/20] is not a prohibited election under Section 1-119(j)(1) of the Code.

2) A member's election to take a refund is not a prohibited election under Section 1-119(j)(1) of the Code.

3) A member's election of a form of payment of annuity that reduces the member's total benefit, while still allowing full payment to the alternate payee under a QILDRO at the date of the election, is not a prohibited election under Section 1-119(j)(1) of the Code.

m) Automatic Annual Increases

1) The alternate payee will or will not receive a proportionate share of any automatic annual increase in the member's retirement benefit under Section 14-114 or 14-115 of the Code, according to the designation in the QILDRO. If the QILDRO fails to designate whether the alternate payee is intended to receive a proportionate share of the automatic annual increase, then the System will presume that the alternate payee is not entitled to a proportionate share of the automatic annual increase in the member's share.

2) The initial increase in the amount due the alternate payee under the QILDRO is payable with the next succeeding increase due the member after the date the QILDRO first took effect.

3) The System will calculate the amount of any increase payable to the alternate payee under the QILDRO.

4) The amount of any increase payable to the alternate payee is the percentage of increase due the member under Sections 14-114 or 14-115 of the Code, multiplied by the alternate payee's monthly benefit as of the date of the increase.

n) Providing Benefit Information for Divorce Purposes

1) Within 45 days after receiving a subpoena or request from a member, the System will provide the information required in Section 1-119(h)(1) of the Code.

2) Information provided by the System for divorce purposes does not include the amount of a member's retirement benefit for which no information is yet on file with the System. The System will not provide a retirement benefit amount if the member is not vested. The System will not project earnings or future service. The System will not assume future eligibility for special formula employees or elections by members.

3) Information provided by the System for divorce purposes does not reflect an actuarial opinion as to the present value of a member's retirement benefit, refund, death benefits or other interests.

4) Except as otherwise indicated by the System in a statement regarding a member's benefits, information provided by the System for divorce purposes reflects the member's total service career for which service credit in the System has accrued, and is not isolated as to the marital period only. The System will not provide benefit information for the marital period or specific years.

5) The System does not calculate the amount of a member's retirement benefit, refund or death benefit that would be payable to a former spouse pursuant to a divorce decree or dissolution judgment.

6) While the System makes every effort to provide accurate information for divorce purposes, benefit estimates are by their nature approximate and subject to revision due to errors, omissions, erroneous assumptions, or future changes in the rules and laws governing the System.

7) The System does not disclose information for divorce purposes to spouses, former spouses, relatives, or other third parties including the member's attorney, except in response to the member's written authorization to release such information, or in response to a subpoena.

o) Member’s Death before Entry of QILDRO Calculation Court Order

1) If the System has on file a valid QILDRO that allocates a System-provided benefit on a percentage basis and if the member named in the QILDRO dies before the associated QILDRO Calculation Court Order has been entered, then the System shall send a written notice to the alternate payee’s last known address to advise the alternate payee that a valid QILDRO Calculation Court Order is needed and that it is the alternate payee’s responsibility to have the required calculations performed and to file that order with the System.

2) If the alternate payee does not respond to the System’s written notice by filing a valid QILDRO Calculation Court Order for the underlying QILDRO within 180 days after the System sends the written notice and, as a result, the alternate payee to whom benefits are to be directed under the QILDRO Calculation Court Order has not been located, then the System shall pay the System-provided benefits that would otherwise be distributed under the QILDRO to the regular payee’s beneficiaries or estate as is provided in Article 14 of the Code.

3) The System has no duty or obligation to assist in performing calculations required for the entry of a QILDRO Calculation Court Order or in completing the QILDRO Calculation Court Order form.

p) Nontaxable Funds

1) Unless otherwise specified in a supplemental order, the nontaxable portion of a payment divided under Section 1-119 of the Code shall be paid solely to the member, or, when applicable, the member's named beneficiaries or estate.

2) Notwithstanding subsection (p)(1), nontaxable funds may be payable to an alternate payee if those funds are needed to fulfill the amount due to that alternate payee as ordered by a court in accordance with Section 1-119 of the Code.

(Source: Amended at 46 Ill. Reg. 6945, effective April 21, 2022)