

In the state of: \_\_\_\_\_

In the court: \_\_\_\_\_

\_\_\_\_\_,  
Petitioner

v.

\_\_\_\_\_,  
Respondent

Case no. \_\_\_\_\_

## APPROVED DOMESTIC RELATIONS ORDER FOR VIRGINIA RETIREMENT SYSTEM – DEFINED BENEFIT PLAN

IT IS HEREBY ORDERED AS FOLLOWS:

### DEFINITIONS AND GENERAL PROVISIONS

**Effect of This Order as an Approved Domestic Relations Order.** This Order creates and recognizes the existence of an Alternate Payee's right to receive a portion of the Member's benefits payable under a defined benefit pension plan that is qualified under § 401 of the Internal Revenue Code (IRC) and administered by the Virginia Retirement System (VRS). Such benefits may represent a portion of the Member's monthly retirement benefit, a refund of employee contributions, or a survivor annuity. It is intended to satisfy the requirements for a Qualified Domestic Relations Order (QDRO) within the meaning of IRC § 414(p) and to constitute an Approved Domestic Relations Order (ADRO) as determined by VRS in its sole discretion.

**Timing of Submission.** This Order shall be submitted to VRS by the Member or the Alternate Payee within 30 days of its entry.

**Member Information.** The name, address, and date of birth of the Member are:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

**Alternate Payee Information.** The name, address, date of birth, and citizenship of the Alternate Payee are:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Alternate payee:  is a U.S. citizen  is not a U.S. citizen.

**Marriage.** The Member and the Alternate Payee were married on \_\_\_\_/\_\_\_\_/\_\_\_\_ and were separated on \_\_\_\_/\_\_\_\_/\_\_\_\_.

**Identification of Plan.** This Order applies to the VRS-administered defined benefit plan applicable to the Member upon retirement (hereinafter the "Plan"), to include the Virginia Retirement System, the State Police Officers' Retirement System, the Virginia Law Officers' Retirement System, and the Judicial Retirement System. Any changes to the name of the Plan shall not affect Alternate Payee's rights as stipulated under this Order.

**Pursuant to State Domestic Relations Law.** This Order is entered pursuant to the authority granted in the applicable domestic relations laws of the State of \_\_\_\_\_.

**For Provision of Marital Property Rights.** This Order relates to the provision of marital property rights to the Alternate Payee as a result of the order of divorce or dissolution between the Member and the Alternate Payee. This Order pertains to that portion of the Member's retirement benefits which shall be subject to distribution under §§ 51.1-124.4(A) and 20-107.3 of the Code of Virginia.

**Definitions.** As used in this Order, the following terms shall apply:

"Creditable service earned" means creditable service earned and purchased.

"Marriage" means the period of time beginning on the date the Member and Alternate Payee were married and ending on the date the Member and Alternate Payee were separated within the meaning of § 20-107.3 of the Code of Virginia.

"Parties" means the Member and Alternate Payee.

"VRS" means the Virginia Retirement System.

#### RETIREMENT BENEFIT

- Option 1:** This Order assigns to the Alternate Payee an amount equal to \_\_\_\_\_% of the marital share of the Member's gross monthly benefit as calculated by VRS as of the Member's benefit commencement date. For this purpose, the marital share shall be determined by multiplying the Member's gross monthly benefit by a fraction, the numerator of which is the Member's total creditable service earned during the Marriage and the denominator of which is the Member's total creditable service earned as a VRS Member. VRS will pay this amount directly to the Alternate Payee, provided that the Member has both retired and is receiving a monthly benefit. The Member's monthly benefit includes any hazardous duty supplement. Cost-of-living adjustments (COLAs), if any, shall be proportionately applied to both the Member's and the Alternate Payee's monthly benefits. If the Member elects to receive a partial lump-sum option payment (PLOP) upon retirement, VRS will pay the proportionate share of such payment directly to the Alternate Payee.

The following formula demonstrates the calculation of the Alternate Payee's monthly benefit if the Order assigns the Alternate Payee 50% of the marital share of the Member's monthly benefit:

$$\frac{\text{Creditable service earned during marriage}}{\text{Total creditable service}} \times \text{Member's monthly benefit} \times 50\% = \text{Alternate Payee's monthly benefit}$$

- Option 2:** This Order assigns to the Alternate Payee an amount equal to \_\_\_\_\_% of the Member's gross monthly benefit as calculated by VRS as of the Member's benefit commencement date. VRS will pay this amount directly to the Alternate Payee, provided that the Member has both retired and is receiving a monthly benefit. The Member's monthly benefit includes any hazardous duty supplement. Cost-of-living adjustments (COLAs), if any, shall be proportionately applied to both the Member's and the Alternate Payee's monthly benefits. If the Member elects to receive a partial lump-sum option payment (PLOP) upon retirement, VRS will pay the proportionate share of such payment directly to the Alternate Payee.
  
- Option 3:** This Order assigns to the Alternate Payee a fixed dollar amount equal to \$\_\_\_\_\_ of the Member's gross monthly benefit as calculated by VRS as of the Member's benefit commencement date. VRS will pay this amount directly to the Alternate Payee, provided that the Member has both retired and is receiving a monthly benefit. The Member's monthly benefit includes any hazardous duty supplement. Cost-of-living Adjustments (COLAs), if any, shall not be applied to the Alternate Payee's monthly benefits. If the Member elects to receive a partial lump-sum option payment (PLOP) upon retirement, the Alternate Payee will not be entitled to any portion of the PLOP. The Member shall ensure that any elections that result in a decrease of the Member's monthly benefit (i.e., the PLOP, the Advance Pension Option, the receipt of a hazardous duty supplement, etc.) do not result in insufficient funds to pay the full amount of the Alternate Payee's monthly benefit.

### SURVIVOR OPTION

- Option 1:** Upon retirement, the Member is required to elect to receive his or her benefit in the form of a survivor option and to designate the Alternate Payee as a contingent annuitant to receive a \_\_\_\_\_% (*enter any whole number between 10 and 100*) survivor benefit. The Member shall complete the applicable VRS form to make the required designation and election. If the Alternate Payee predeceases the Member, then this section of the Order shall no longer apply. If the survivor option percentage stated above exceeds the maximum percentage allowed by law due to the age difference between the Member and the Alternate Payee, then the maximum percentage allowed by law will be used for purposes of this Order.

## REFUND OF EMPLOYEE CONTRIBUTIONS

- Option 1:** If the Member requests a refund of his or her defined benefit member contribution account, this Order assigns to the Alternate Payee an amount equal to \_\_\_\_\_% of the marital share of the Member's refund, as calculated by VRS as of the Member's refund date. For this purpose, the marital share shall be determined by multiplying the Member's refund by a fraction, the numerator of which is the Member's total creditable service earned during the Marriage and the denominator of which is the Member's total creditable service earned as a VRS Member.

The following formula demonstrates the calculation of the Alternate Payee's refund if the Order assigns the Alternate Payee 50% of the marital share of the Member's refund:

$$\frac{\text{Creditable service earned during marriage}}{\text{Total creditable service}} \times \text{Member's refund} \times 50\% = \text{Alternate Payee's share of refund}$$

- Option 2:** If the Member requests a refund of his or her defined benefit member contribution account, this Order assigns to the Alternate Payee an amount equal to \_\_\_\_\_% of Member's refund, as calculated by VRS.
- Option 3:** If the Member requests a refund of his or her defined benefit member contribution account, this Order assigns to the Alternate Payee a fixed dollar amount equal to \$\_\_\_\_\_ of the Member's refund as calculated by VRS. If the fixed dollar amount exceeds the amount of the refund available to the Member, then the Alternate Payee will receive the full amount available for refund to the Member.

## DEATH BENEFITS

- Option 1:** The Member is required to designate the Alternate Payee as a beneficiary entitled to an amount equal to \_\_\_\_\_% of the marital share of the funds remaining in the Member's defined benefit member contribution account upon the Member's death, as calculated by VRS. For this purpose, the marital share shall be determined by multiplying the funds remaining in the Member's defined benefit member contribution account at Member's death by a fraction, the numerator of which is the Member's total creditable service earned during the Marriage and the denominator of which is the Member's total creditable service earned as a VRS member. The Member shall complete the applicable VRS form to make the required beneficiary designation and election, and the designation must post-date the Member's and the Alternate Payee's divorce. It is the sole responsibility of the Member to maintain a beneficiary designation on file with VRS necessary to effectuate the terms of this paragraph.

The following formula demonstrates the calculation of the Alternate Payee's benefit if the Order assigns the Alternate Payee 50% of the marital share of the funds remaining in the Member's defined benefit member contribution account:

Creditable service earned  
\_\_\_\_\_ during marriage \_\_\_\_\_ x remaining funds x 50% = Alternate Payee's share of remaining funds  
Total creditable service

- Option 2:** The Member is required to designate the Alternate Payee as a beneficiary entitled to an amount equal to \_\_\_\_\_% of the funds remaining in the Member's defined benefit member contribution account upon the Member's death, as calculated by VRS. The Member shall complete the applicable VRS form to make the required beneficiary designation and election, and the designation must post-date the Member's and the Alternate Payee's divorce. It is the sole responsibility of the Member to maintain a beneficiary designation on file with VRS necessary to effectuate the terms of this paragraph.
  
- Option 3:** The Member is required to designate the Alternate Payee as a beneficiary entitled to a fixed dollar amount equal to \$\_\_\_\_\_ of the funds remaining in Member's defined benefit member contribution account upon the Member's death. The Member shall complete the applicable VRS form to make the required beneficiary designation and election, and the designation must post-date the Member's and the Alternate Payee's divorce. It is the sole responsibility of the Member to maintain a beneficiary designation on file with VRS necessary to effectuate the terms of this paragraph. If the fixed dollar amount exceeds the remaining funds in the Member's defined benefit member contribution account, then the Alternate Payee will receive the full amount of the remaining funds in the Member's account.

### ADDITIONAL PROVISIONS

**Approval of Order.** If an option box is selected but corresponding information is not provided (e.g., the Option 1 box is checked, but a marital share percentage is not provided), if none of the option boxes are selected, or if multiple option boxes are selected in any section, VRS will not approve a benefit payment to the Alternate Payee under that section. If information for an option is provided but the corresponding option box is not selected, then VRS may approve a benefit payment to the Alternate Payee if, in the sole discretion of VRS, there is no ambiguity regarding the intent of the Order. If VRS determines that any ambiguity exists regarding the intent of this Order, then VRS, in its sole discretion, may choose not to approve a benefit payment to the Alternate Payee.

**Commencement Date and Form of Payment to the Alternate Payee.** The benefits payable to the Alternate Payee under this Order shall commence to the Alternate Payee as soon as administratively practicable following the approval of this Order as an ADRO. The Alternate Payee shall receive his or her benefits either as a direct payment to the Alternate Payee or, if eligible, as a direct rollover to an eligible retirement plan. The Alternate Payee will continue to receive his or her assigned share of the benefits under this Order until the earlier to occur of his or her death or the Member's death.

**Death of Alternate Payee.** If the Alternate Payee predeceases Member, the Alternate Payee's portion of Member's benefits, as stipulated herein, shall revert to the Member.

**Savings Clause.** This Order is not intended and shall not be construed in such a manner as to require VRS:

- To provide any type or form of benefit, or any option, not otherwise provided under the terms of the relevant Plan;
- To pay increased benefits;
- To recover or distribute any funds distributed to the Member or at the Member's direction prior to the approval of this Order by VRS;
- To pay benefits to the Alternate Payee that is required to be paid to another alternate payee under another order that was previously deemed to be an ADRO;
- To pay any benefits or take any action inconsistent with federal or state law, VRS policy, or court order;
- To notify the Alternate Payee of any change or alteration of benefits due to Member;
- To pay any life insurance proceeds or refund of retirement contributions upon the death of the Member to anyone other than a designated beneficiary;
- To pay benefits to the Alternate Payee before the Member retires, terminates covered employment and requests a refund, or dies with a refund payable as a death benefit; or
- To pay benefits to the Alternate Payee before the Member's benefits commence.

**Certification of Necessary Information.** All payments made pursuant to this Order shall be conditioned on the certification by the Alternate Payee and the Member to VRS of such information as VRS may reasonably require from such Parties to calculate the benefits payable under this Order. VRS will not be liable for any incorrect payment resulting from the Alternate Payee's failure to provide updated address, payment, or other information. **The Parties will provide VRS with a separate private addendum containing the Member's and the Alternate Payee's Social Security numbers.**

**Tax Treatment of Distributions Made Under This Order.** For purposes of Code §§ 402(a)(1) and 72, Alternate Payee shall be treated as the distributee of any distribution or payments made to Alternate Payee under the terms of this Order, and as such, will be required to pay the appropriate federal income taxes on such distribution.

**Inadvertent Payments.** In the event that VRS inadvertently pays to the Member any benefits that are assigned to the Alternate Payee pursuant to the terms of this Order, VRS may, in its sole discretion, recoup such payments on a prospective basis by reducing Member's monthly pension benefits on a temporary basis until a full recovery is made. Similarly, in the event that VRS inadvertently pays to the Alternate Payee any benefits that belong to the Member, VRS may, in its sole discretion, recoup such payments on a prospective basis by reducing the Alternate Payee's monthly pension benefits on a temporary basis until a full recovery is made.

**Correcting, Suspending, or Terminating Payments.** VRS will retain any rights it may have to correct, suspend, or terminate payments to the Alternate Payee and the Member. The Member or Alternate Payee may contest benefit amounts, payments, corrections, suspensions, or terminations solely through the other Party and not VRS. Payments pursuant to the Order will be without prejudice to any right VRS has under applicable law to seek recoupment or offset for overpayment.

**Plan Terms.** In the case of conflict between any of the terms of this Order and the terms of the Plan, the terms of the Plan shall prevail. This Order does not entitle the Alternate Payee to VRS membership or the ability to maintain an independent account under a VRS administered retirement plan.

**Enforcement.** Compliance with this Order is solely the responsibility of the Member and the Alternate Payee. VRS shall not be responsible for ensuring that a Member complies with this Order. VRS shall not be legally or financially responsible for the Member's or the Alternate Payee's failure to comply with this Order.

AND IT IS SO ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

(month) (year)

ENTER:

\_\_\_\_\_  
Judge

## **INSTRUCTIONS FOR APPROVED DOMESTIC RELATIONS ORDER (ADRO) FOR VIRGINIA RETIREMENT SYSTEM – DEFINED BENEFIT PLAN**

In the case of a Virginia Retirement System (VRS) member's divorce, use this Approved Domestic Relations Order for Virginia Retirement System – Defined Benefit Plan form to divide VRS defined benefit plan (i.e., pension) payments. After completing the form, have the presiding judge for the case enter the order and provide VRS with a final copy of the approved domestic relations order (ADRO).

This form will only result in the division of one VRS member's defined benefit plan payments as outlined in the ADRO. It will not result in division of a VRS member's defined contribution account(s), and a separate form is necessary to divide any other VRS member's benefits. If you also wish to divide a VRS member's defined contribution account(s), you must complete the separate Approved Domestic Relations Order for Virginia Retirement System – Defined Contribution Plan(s) form.

For a Hybrid Retirement Plan member, or for a Plan 1 or Plan 2 member who also has a defined contribution account balance, both this form and the separate Approved Domestic Relations Order for Virginia Retirement System – Defined Contribution Plan(s) form may be necessary. Contact VRS if you have any questions.

Follow the instructions below for each section before submitting the Approved Domestic Relations Order for Virginia Retirement System – Defined Benefit Plan form to a court for consideration.

### **Case Caption (required)**

- Provide the *state and court of jurisdiction, petitioner's legal name, respondent's legal name, and case number.*

### **Definitions and General Provisions section (required)**

- In the Member Information paragraph, provide the *name, mailing address, and date of birth* for the party whose VRS benefits are subject to division. If both parties are VRS members, ensure that the party whose VRS account is the subject of the ADRO is listed as the member. A single ADRO cannot be used to divide both VRS members' benefits.
- In the Alternate Payee Information paragraph, provide the *name, mailing address, date of birth, and citizenship status* for the member's former spouse.
  - a. Select the appropriate box (only one) regarding alternate payee's U.S. citizenship status. Checking the first box indicates that the alternate payee is a U.S. citizen. Checking the second box indicates that the alternate payee is not a U.S. citizen.
- In the Marriage paragraph, provide the *marriage date and separation date*, which will be used in calculating the marital share of benefits.
- In the Pursuant to State Domestic Relations Law section, provide the applicable *state*.



**Important: Any incomplete or missing information in the Definitions and General Provisions section may result in delay of processing until VRS receives a fully completed ADRO.**

Retirement Benefit section (optional)

- If the alternate payee is to receive a portion of the member's monthly retirement benefit, *select one* of the options and provide the relevant information.
  - Option 1 divides the benefit on a marital share basis using the formula described in the ADRO. *The applicable marital share percentage must be stated in the ADRO.* Selection of this option will result in the alternate payee receiving a portion of the member's hazardous duty supplement and partial lump-sum option payment, if applicable. The alternate payee will also receive cost-of-living adjustments (COLAs) proportionate to his or her share of the member's benefit.
  - Option 2 divides the benefit using a fixed percentage. *The applicable percentage must be stated in the ADRO.* Selection of this option will result in the alternate payee receiving a portion of the member's hazardous duty supplement and partial lump-sum option payment, if applicable. The alternate payee will also receive cost-of-living adjustments (COLAs) proportionate to his or her share of the member's benefit.
  - Option 3 provides the alternate payee with a monthly fixed dollar amount. *The applicable dollar amount must be stated in the ADRO.* Under Option 3, the alternate payee will not receive any portion of the member's partial lump-sum option payment, and COLAs will not be applied to the alternate payee's amount.
- If the member elects a survivor option upon retirement, then the member's monthly benefit amount will be reduced accordingly, which also may impact the alternate payee's portion.

Survivor Option section (optional)

- If the member is required to name the alternate payee as a contingent annuitant under a survivor option, *select Option 1* and *enter the applicable survivor option percentage.*
  - The percentage stated in the ADRO must be a whole number of no less than 10 and no more than 100.
  - Selection of a survivor option will result in the member receiving a reduced monthly retirement benefit, which will also impact the alternate payee's portion of the monthly retirement benefit, if applicable. The amount of the reduction will depend on the age difference between the member and the designated contingent annuitant.

Refund of Employee Contributions section (optional)

- If the member takes a refund of member contributions and the alternate payee is to receive a portion thereof, *select one* of the options and provide the relevant information.
  - Option 1 divides the refund on a marital share basis using the formula described in the ADRO. *The applicable marital share percentage must be stated in the ADRO.*

- Option 2 divides the refund using a fixed percentage. *The applicable percentage must be stated in the ADRO.*
- Option 3 provides the alternate payee with a fixed dollar amount. *The dollar amount must be stated in the ADRO.*

Death Benefits section (optional)

- If the member predeceases the alternate payee and the alternate payee is to receive a portion of any funds remaining in the member contribution account, select one of the options and provide the relevant information.
  - Option 1 divides any remaining funds on a marital share basis using the formula described in the ADRO. *The applicable marital share percentage must be stated in the ADRO.*
  - Option 2 divides any remaining funds using a fixed percentage. *The applicable percentage must be stated in the ADRO.*
  - Option 3 provides the alternate payee with a fixed dollar amount. *The dollar amount must be stated in the ADRO.*
- The member must provide VRS with a *beneficiary designation* that complies with the terms of this section and that post-dates the member's and alternate payee's divorce. VRS will pay out benefits in accordance with the member's most recent beneficiary designation, and it is the sole responsibility of the member to maintain this beneficiary designation.
- Selection of an option in this section will not result in the alternate payee receiving a portion of life insurance benefits upon the member's death.

**Important: The member's failure to provide VRS with a beneficiary designation that complies with the terms of the Death Benefits section and that post-dates the divorce may result in a payout that does not reflect the terms of the ADRO.**

Additional Provisions section (required)

- Provide VRS with:
  - Updated *address, contact, and payment information* for the *member* and *alternate payee*, as applicable; and
  - A separate private addendum containing the *member's* and the *alternate payee's Social Security numbers*.

**Important: Failure to adhere to the terms of the Additional Provisions section may result in delay of processing the ADRO until VRS receives all necessary information.**