

WAC 415-02-530 How can a property division dissolution order give my ex-spouse an interest¹ in part of my Plan 3 retirement account? (1) You **MUST** use this section if you are a member of TRS Plan 3, PERS Plan 3 or SERS Plan 3 and do not have enough service credit to receive a service retirement from the defined benefit portion of your retirement plan when you meet the age requirement.

(2) Dividing a defined monthly retirement benefit (defined benefit). Your defined monthly retirement benefit may be divided between you and your ex-spouse.

(a) **What language must the property division dissolution order or amendment include to pay a portion of my defined monthly retirement benefit to my ex-spouse?** The order must use the language in RCW 41.50.670(2), provided below. The order or amendment must state either a specific dollar amount or percentage of the benefit. It cannot state both.

If _____ (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to _____ (the obligee) _____ dollars from such payments or _____ percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

(b) **How will the defined benefit portion of my retirement account be affected if the department accepts the property division dissolution order BEFORE I retire?**

(i) Your ex-spouse will not receive any payments from your defined benefit portion until you retire.

(ii) If you or your ex-spouse dies before you retire, the portion of your defined benefit account awarded to your ex-spouse in the dissolution order ends.

(c) **How will the defined benefit portion of my retirement account be affected if the department accepts the property division dissolution order AFTER I retire?**

(i) If included in the dissolution order, the department will begin paying your ex-spouse his or her portion of your defined benefit payment the first month after the department has accepted the order.

(ii) If your ex-spouse dies before you, the portion of your defined benefit payment being paid to him or her will be paid to you.

(iii) If you die before your ex-spouse, payments to your ex-spouse stop unless the department accepted the order at least 30 days before you retired and it required the department to name your ex-spouse as a survivor beneficiary. See RCW 41.50.700(1) and 41.50.790.

(d) **Is there a maximum payment amount of the defined benefit portion of my retirement account that the property division dissolution order can award to my ex-spouse?** Yes. See RCW 41.50.670(4) and WAC 415-02-500(10) for information.

(e) **If the property division dissolution order directs the department to make payments to my ex-spouse, how will the payments be made?** The department will make the required payments as specified in the dissolution order directly to your ex-spouse.

(3) **Can I amend my existing order to remove my ex-spouse as my survivor beneficiary?** Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as survivor beneficiary will change your retirement benefit. See WAC 415-02-540 (9) and (14) for the language that must be used.

(4) **Dividing a defined contribution account.** Your accumulated defined contribution account may be divided between you and your ex-spouse.

(a) **What language must be used in a property division dissolution order to award a portion of my defined contribution account to my ex-spouse?** The order must include the language provided in the following paragraph. The exact dollar amount to transfer to your ex-spouse's defined contribution account must be specified. Do not use formulas or percentages. (See example in WAC 415-02-500 (14)(b)).

The Department of Retirement Systems (department) shall split _____ (member's) **defined contribution account** in the _____ (name of retirement system and plan) and create a separate account for _____ (ex-spouse). The amount of \$_____ (amount) shall be transferred from _____'s (member's) **defined contribution account** to _____'s (ex-spouse's) new account. This provision shall become effective as soon as administratively possible after the department's acceptance of the order.

(b) **Can my entire defined contribution account balance be awarded to my ex-spouse?** Yes, using the language provided in the following paragraph:

The Department of Retirement Systems (department) shall transfer _____ (member's) entire defined contribution account in the _____ (name of retirement system) to a separate account for _____ (ex-spouse). This provision shall become effective as soon as administratively possible after the department's acceptance of the order.

(c) **If the department accepts the property division dissolution order BEFORE I retire, how will the department divide my defined contribution account with my ex-spouse?**

(i) The amount the dissolution order awards to **your ex-spouse** will be deducted from **your** account and set up in a separate account for your ex-spouse. Upon acceptance of the order, the department will affect the transfer of the specified amount as soon as administratively possible. The amount in your ex-spouse's separate account will be subject to market gains and losses after the transfer.

(ii) **You** and **your ex-spouse** will manage your individual portions of the account independently from one another.

(iii) **You** must continue to contribute to your account during your employment.

(iv) **Your ex-spouse** may not contribute to his or her account.

(d) **If the department accepts the property division dissolution order AFTER I retire, how will the department divide my defined contribution account with my ex-spouse?** If your defined contribution account has not been exhausted at the time the department accepts the dissolution order, the department will divide the remaining funds as speci-

fied in the dissolution order according to subsections (3) and (4) of this section.

(e) **What options does my ex-spouse have in managing his or her separate defined contribution account?** Your ex-spouse may:

(i) Transfer money between the state-managed (WSIB) or the self-directed (SELF) investment programs; and

(ii) Transfer money among the investment options in the SELF-directed program.

(iii) If **you die before** a distribution has been made from your defined contribution account, your beneficiary(ies) must apply for a lump sum distribution of the funds in your account.

(iv) If **you die before** a distribution has been made from your defined contribution account, your ex-spouse must begin receiving distribution of his or her funds at that time according to the distribution options in WAC 415-111-310.

(v) If **your ex-spouse dies before** a distribution has been made from his or her defined contribution account, your ex-spouse's beneficiary(ies) must apply for a lump sum distribution of the funds in his or her account.

(vi) If **you die after** you begin receiving funds from your defined contribution account but before your funds have been exhausted, the remaining balance of the funds will be disbursed to your designated beneficiary(ies).

(vii) If **your ex-spouse dies after** receiving funds from his or her account but before the funds have been exhausted, the remaining balance of the funds will be disbursed to your ex-spouse's designated beneficiary.

(5) **Terms used:**

(a) Department's acceptance - Order that fully complies with the department of retirement systems' requirements and chapter 41.50 RCW.

(b) Dissolution order - RCW 41.50.500.

(c) Ex-spouse - WAC 415-02-030.

(d) Obligee - RCW 41.50.500(5).

(e) Obligor - RCW 41.50.500(6).

(f) Plan 3 retirement systems - WAC 415-111-100.

(g) Split accounts - WAC 415-02-030.

(h) Survivor benefits - WAC 415-02-030.

Footnote to section:

¹ When a court awards an interest in your retirement account, the department is required to pay a portion of your monthly retirement benefit payments or a portion of your contributions to your ex-spouse.

[Statutory Authority: RCW 41.50.050. WSR 23-01-003, § 415-02-530, filed 12/7/22, effective 1/7/23. Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. WSR 03-12-014, § 415-02-530, filed 5/27/03, effective 7/1/03.]