

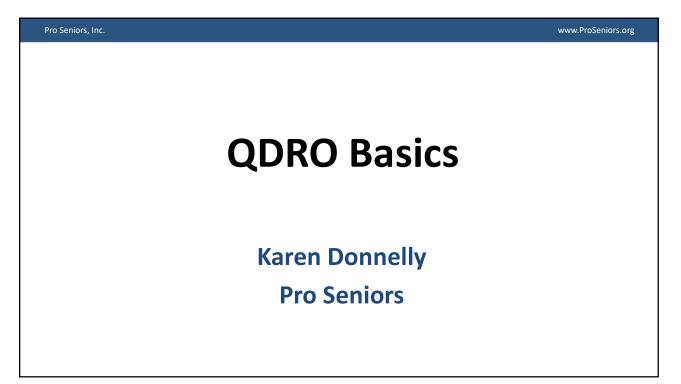






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| Medicaid Medicare Elizibility | |
| Medicaid-Medicare Eligibility | |
| This site provides general information only and not legal advice. The law is complex and changes frequently. Before you apply any information to a particular situation, call Pro Seniors' Legal Hotline or consult an attorney in elder law. The numbers listed below change annually on the effective date listed in the first column. | |
| Application Forms for Medicare Premium Assistance The Ohio Department of Medicaid prefers Form <u>ODM 07216</u> when applying for Medicare Premium Assistan form. Therefore, we have provided a form that highlights the areas that need to be completed, and we have Please be sure to advise your county caseworker of all members of your household. • <u>ODM 07216</u> (Prefered by Ohio Department of Medicaid) • <u>ODM 07203</u> (Old form still accepted by some Ohio counties) | |
| Pamphlets | |
| For more general information regarding Medicare and Medicaid see our <u>complete list of pamphlet titles</u> . Pro Seniors provides legal information pamphlets on a variety of subjects. Single copies are available to individuals free of charge. Contact Pro Seniors, Inc. and we will mail you pamphlets which are of interest to you. | |
| Ohio Department of Medicaid Resources and Rules | |
| Click here for a handy list of ODM's resources and rules for the Medicaid practitioner or curious individual. Pro Seniors makes every effort to update the list with the most current rules. However, we can neither guarantee the list's accuracy nor its appropriateness for any specific purpose. | |
| Medicaid Eligibility Standards | |
| Pro Seniors receives frequent requests from professionals for the current Medicaid eligibility standards. Pro Seniors makes every effort to update the numbers below with the most current releases. However, we cannot guarantee the accuracy of the numbers below, nor their appropriateness for any specific purpose. | |
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| Browse Our Files | Consumer Protections | ~ |
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| Pro Seniors provides legal information fact sheets / pamphlets on a variety of subjects. Single print copies are available to individuals free of charge by calling Pro Seniors, at (513) 345-4160 or 1-800-488-6070. | Elder Law Rights | ~ |
| These fact sheets provide general information and not legal advice. The law is complex and changes frequently. Before you apply any information to a particular situation, call Pro | Wills & Small Estates | ~ |
| Seniors' free Legal Helpline or consult an attorney in elder law. | Health Care Planning & Decision Making | ~ |
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| 15 Sales | Housing | ~ |
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Qualified Domestic Relations Order Basics

Karen Donnelly Pro Seniors

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| Terminology | |
| Terms and acronyms for the Order can include: "QDRO" – Qualified Domestic Relations Order "DRO" – Domestic Relations Order "DPO" or "DOPO" – Division of Property Order "COAP" – Court Order Acceptable for Processing "MPDO" - Military Retired Pay Division Orders | |
| Identification of the Parties: •"Participant" (P) – Employee •"Alternate Payee" (AP) – Ex-spouse receiving share of employ pension | ee's |

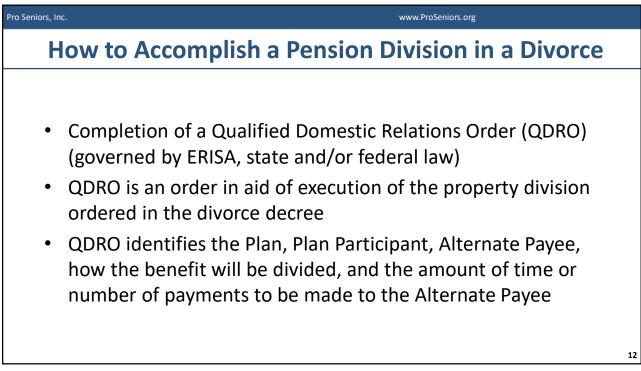
Division of Pension Plans in a Divorce

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- A qualified domestic relations order (QDRO), is a court order that specifies how to divide a retirement plan or pension fund during a divorce.
- The QDRO is an order that creates or recognizes the existence of a former spouse's right to receive all or a portion of the benefits payable to a participant under a retirement plan.
- Pension cannot be divided without a QDRO or DPO
- State law generally provides for the division of marital property. In Ohio, for example, R.C. 3015.171(C)(1) provides that the division of marital property shall be equal.

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Rules Governing QDRO Qualification (ERISA Plans)

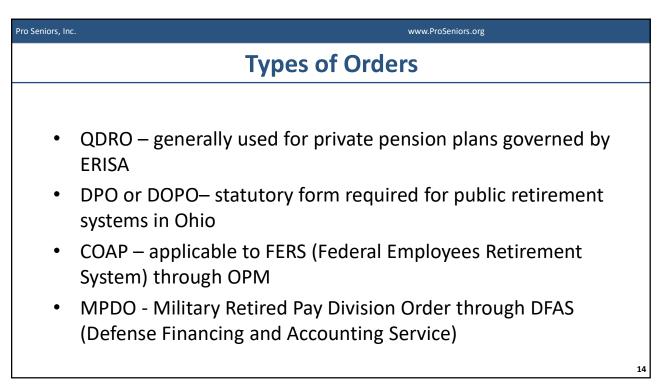
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ERISA Plans

- IRS Code Section 414(p)
- Employee Retirement Income Security Act of 1974 "ERISA", Section 206(d)(3)
- Applies to most private pension plans

Non-ERISA Plans

- Most federal government pension plans (e.g. OPM, Military) governed by federal law specific to that particular plan
- State and local pension plans (OPERS, STRS, OP&F) governed by state statute (In Ohio governed by ORC Sections 3105.80 – 3015.90)

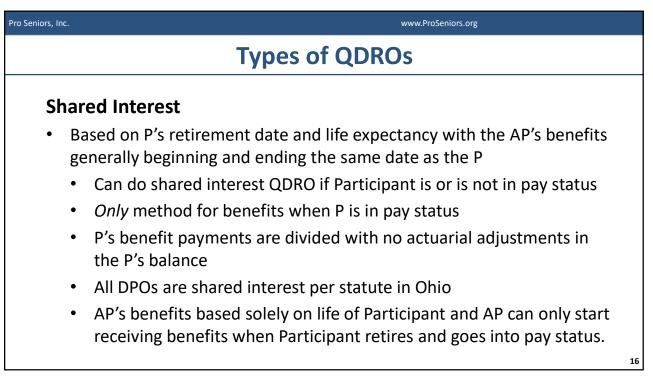


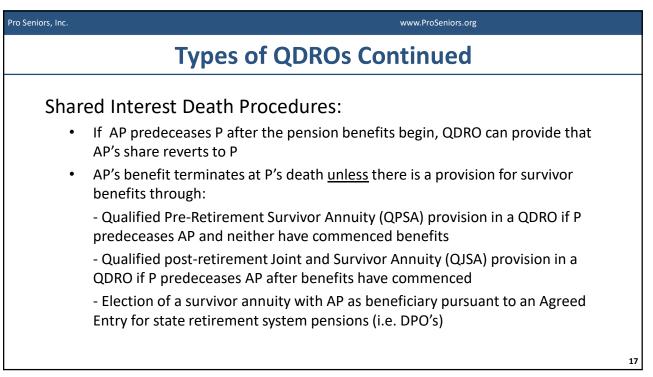
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Difference Between DPO and QDRO

- Ohio uses a standard DPO form for state employees governed by state law (exempt from ERISA)
- An Ohio DPO does not establish a separate account for the AP
- Under an Ohio DPO, the AP can only receive funds from the retirement system when the member receives a benefit that is subject to the DPO
- The Ohio DPO does not provide survivorship rights for the AP
- In Ohio, must use the standard form DPO created by statute without alterations
- Other states may also have state and local plans exempt from ERISA governed by state law that may or may not have a standard form





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| | Types of QDROs | | | |
| Se | eparate Interest | | | |
| • | Generally fairest method to both parties | | | |
| • | Provides greater control and much less risk to the AP | | | |
| • | Splits the Plan balance between the P and AP before payments have begun | | | |
| • | Can only use if P has not retired and is not in pay status | | | |
| • | AP can make own elections regarding their share of the pension | | | |
| • | AP's benefits are based on AP's lifetime (no survivor annuity needed) | | | |
| | Gives P and AP control over how their share of plan benefits will be paid and eliminates AP's risk of payments ending at P's death. | | | |
| | AP can usually start receiving benefits from P's pension at P's earliest retirement age under the Plan | | | |
| | | | | |

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Types of QDROs

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Shared Interest Example 1:

Mr. T has pension credits in a state public employees retirement system that requires a DPO for division of the pension. Mrs. T is entitled to 50% of the marital portion of Mr. T's pension pursuant to the divorce decree, so a DPO would need to be completed. Mrs. T would not receive any pension benefits until Mr. T becomes eligible and applies for his pension. Once Mr. T goes into pay status, Mrs. T will receive 50% of the marital share of Mr. T's state pension. If Mr. T dies before he becomes eligible for and applies for pension benefits, Mrs. T receives nothing. If Mr. T dies after he is eligible for and applies for pension benefits, Mrs. T's benefits will terminate *unless* Mr. T elected a survivor annuity with Mrs. T as beneficiary pursuant to an Agreed Entry.

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Types of QDROs

Shared Interest Example 2:

Mr. and Mrs. X are recently divorced. Mr. X was employed by Black Corp and has a DBP pension. Mr. Black was already in pay status with his pension at the time of his divorce. Mrs. X was entitled to receive 50% of the marital portion of Mr. X's pension with Black Corp. pursuant to the divorce decree. A shared interest QDRO must be completed in order for Mrs. X to receive her portion of Mr. X's pension since Mr. X is already in pay status.

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Types of QDROs

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Shared Interest Example 3:

Mr. and Mrs. C are recently divorced. Mrs. C is the participant in a DBP pension with Yellow Corp. Mr. C (the A.P.) is entitled to 50% of the marital portion of Mrs. C's pension pursuant to the divorce decree. Mr. C is 10 years older than Mrs. C and is terminally ill with cancer and Mrs. C is close in age to retirement, but has not yet gone into pay status. Although a separate interest QDRO is an option since Mrs. C has not yet gone into pay status, the attorney representing Mrs. C drafts a shared interest QDRO with a provision allowing Mr. C's A.P. share to revert back to Mrs. C after Mr. C's death (either prior to, or after benefit commencement date) due to the statistical likelihood that Mr. C will predecease Mrs. C.

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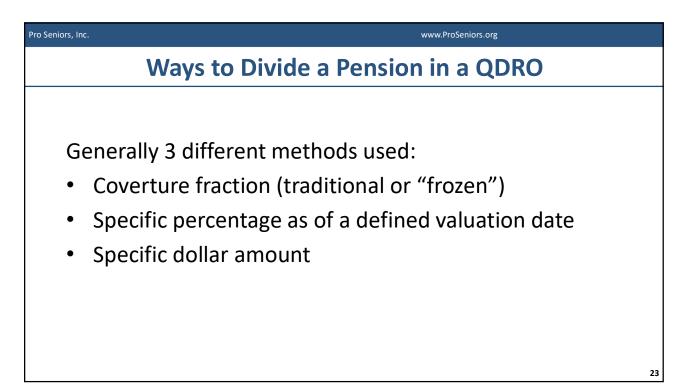
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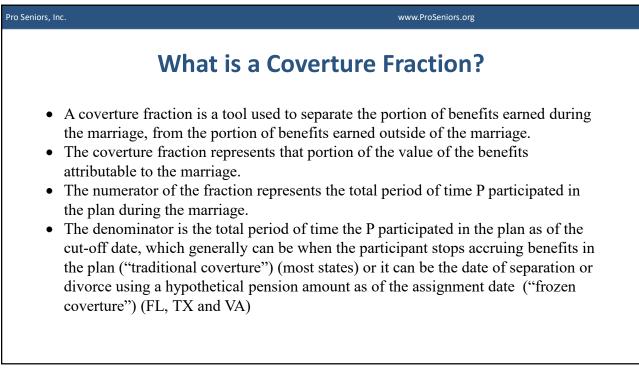
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Types of QDROs

Separate Interest Example:

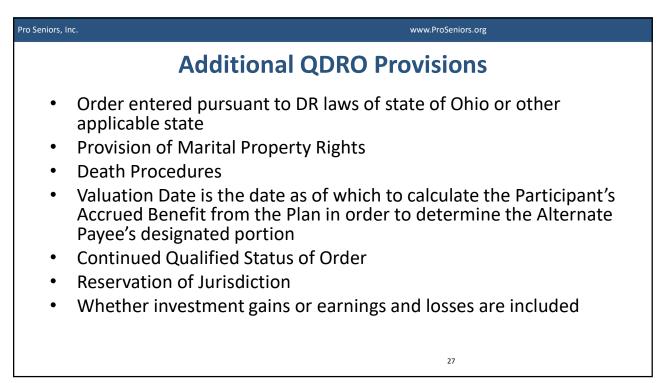
Mr. B is the participant in a DBP pension with Blue Corp. Mr. B still works for Blue Corp and has not yet retired. Mrs. B is entitled to 50% of the marital portion of Mr. B's Blue Corp pension pursuant to the divorce decree. A separate interest QDRO is completed so that Mrs. B will receive her share of Mr. B's pension, which she can elect at Mr. B's earliest retirement age (regardless of whether or not he retires at that time). Mrs. B's share of Mr. B's pension is placed in a separate account that she controls with benefits based on her life expectancy. Mrs. B's share will be unaffected by Mr. B's death.

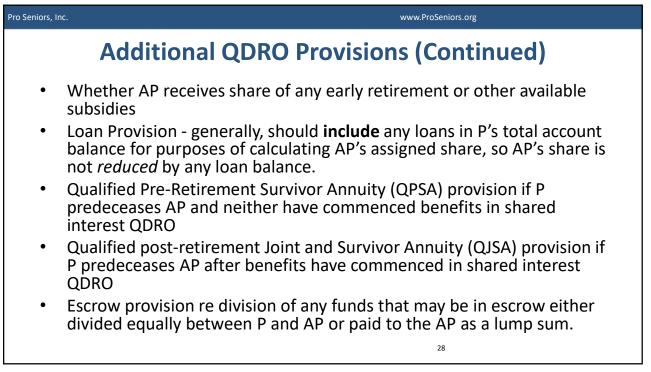


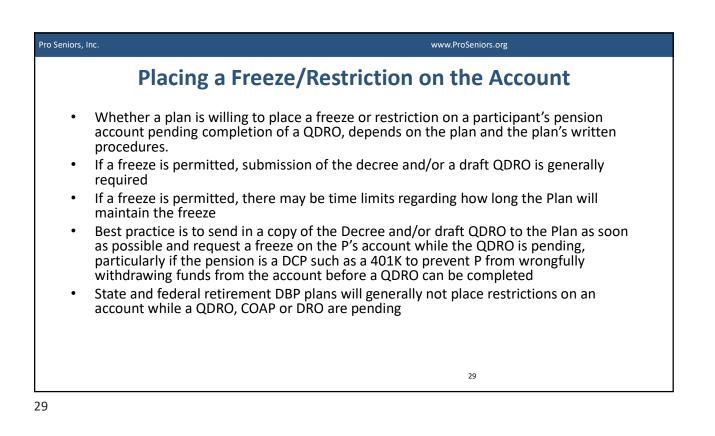


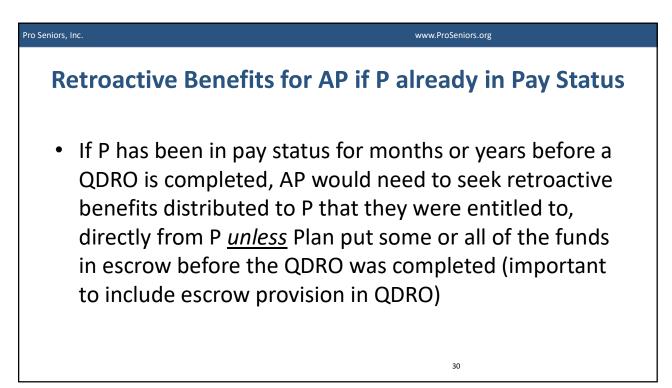
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| | Traditional Coverture Fraction Example | | | |
| | Decree grants AP 50% of the marital portion of P's pension | | | |
| | Marriage Date: June 30, 1970Divorce: June 30, 1990Employ. Start Date: January 1, 1970Employ. stop date: January 1, 2000P's gross monthly accrued benefit at retirement = \$600/month | | | |
| | Total years P was in pension plan during the marriage = 20 years ($\frac{6}{30}/70-\frac{6}{30}/90$) | | | |
| | Total years P was in the pension plan = 30 years $(1/1/70 \text{ to } 1/1/00)$. | | | |
| | Coverture fraction calculation: 20 Years married and employed/30 years employed/accruing benefits $(20/30) = 0.67$ | | | |
| | Applying the coverture fraction: $600/month$ gross pension benefit X 50% X .67 = $201/month$ benefit to the AP | | | |

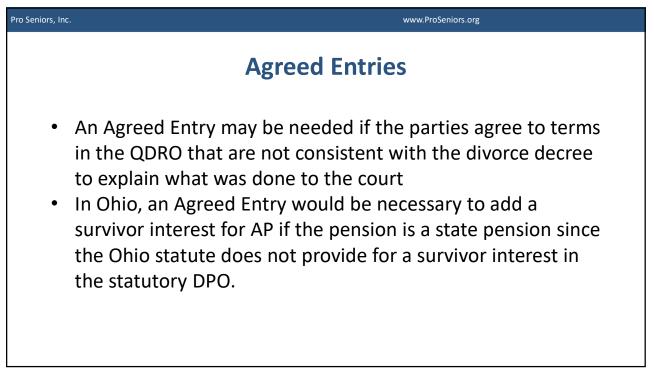
| Drafting the QDRO: Required ERISA Provisions P and AP info. (name, current or last known mailing address, DOB, SSN) Identification of the Plan and the Plan Administrator Amount of AP's benefit Commencement Date and Form of Payment to AP Savings Clause - Order cannot require the Plan to: (a) provide a type or form of benefit not available under the plan (b) provide increased benefits payable under the plan, or (c) pay benefits already being paid to another alternate payee. | Pro Seniors, Ir | nc. www.ProSeniors.org | |
|--|-----------------|---|----|
| Identification of the Plan and the Plan Administrator Amount of AP's benefit Commencement Date and Form of Payment to AP Savings Clause - Order cannot require the Plan to: (a) provide a type or form of benefit not available under the plan (b) provide increased benefits payable under the plan, or | | Drafting the QDRO: Required ERISA Provisions | |
| | • • • | Identification of the Plan and the Plan Administrator Amount of AP's benefit Commencement Date and Form of Payment to AP Savings Clause - Order cannot require the Plan to: (a) provide a type or form of benefit not available under the plan (b) provide increased benefits payable under the plan, or | |
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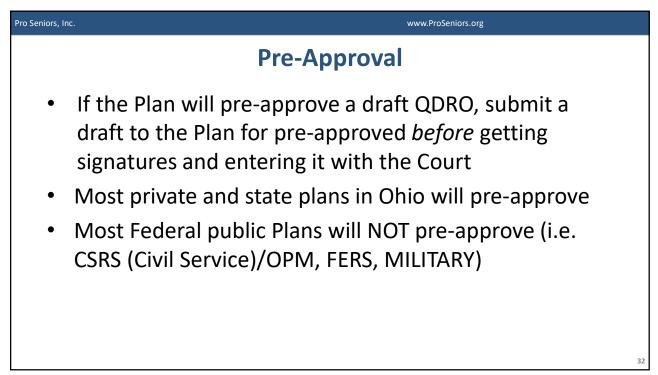










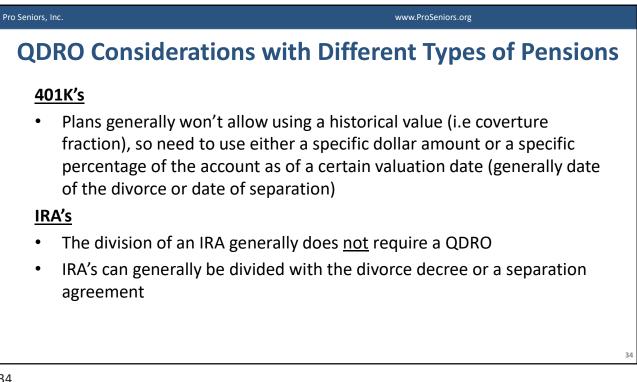


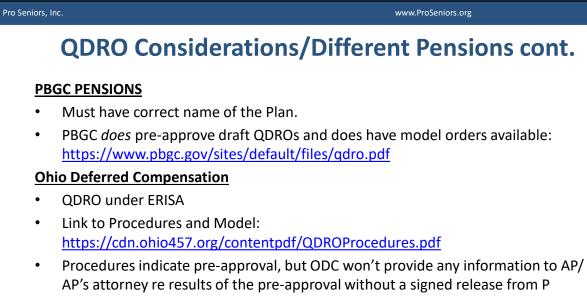
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Plan Administrators/Third Party Administrators

- Pension Plans (particularly larger pension plans) may choose to outsource their QDRO administration to a Third Party Administrator (TPA).
- Third Party Administrator is an organization that contracts with a retirement plan to review and process QDROs for the plan.
- Law firms can sometimes act as third party administrators for a pension plan.
- Examples of Third Party Administrators, e.g. Lifeworks (fka Morneau Sheppell), Fidelity, QDRO group, QDRO Consultants, One America, Empower, Vibrantz.
- Certain third Party Administrators, (e.g. Fidelity, OneAmerica and Vibrantz) refuse to provide notices to AP's attorney or provide any information re QDRO status without the P or AP on the line.

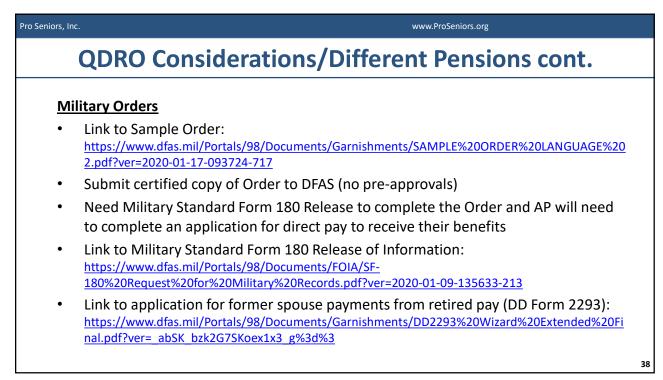




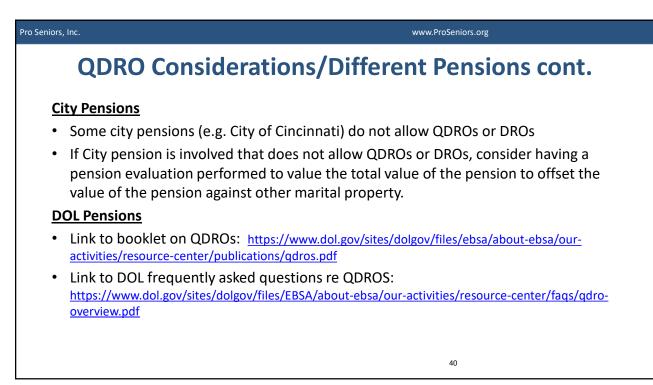
Link to PDF for ROI (not on ODC website):https://www.proseniors.org/wp-٠ content/uploads/2024/09/Ohio-Deferred-Compensation-Release-of-Information.pdf

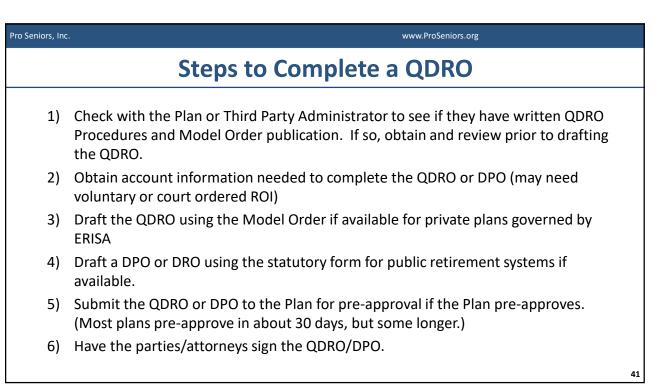
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| | QDRO Considerations/Different Pensions cont. |
| • | DPO's for Ohio Public Employee Pensions (OPERS, STRS and OP&F) |
| • | Link to statutory form (fillable): <u>https://www.opers.org/forms-archive/Division-of-Property-Order-form-fillable.pdf</u> |
| • | Need to provide the numerator of the coverture fraction (II.B.2.c, p. 4 of the form) |
| • | Retirement program will reject DPO if the numerator is greater than the number of years P was both contributing member of Plan and married |
| • | Retirement program provides the denominator of the coverture fraction |
| • | Obtain a voluntary release from P our court ordered release to confirm the correct numerator of the coverture fraction |
| • | Link to OPERS ROI form: https://www.opers.org/forms-archive/LL-2.pdf |
| • | Link to STRS ROI form: <u>https://www.strsoh.org/_pdfs/forms/40-121.pdf</u> |
| • | Link to OP&F ROI form: <u>https://www.op-f.org/Files/Authorization%20to%20Release%20Records.pdf</u> |
| • | Link to OPERS pamphlet on Domestic Relations that includes sample Judgement Entry for Survivorship and Entry for ROI (have used with other public retirement programs): <u>https://www.opers.org/pubs-archive/leaflets/ISL-O-Domestic-Relations.pdf</u> |
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| Q | DRO Considerations/Different Pensions cont. |
| | (Military Orders Continued) |
| Survi | vor Benefit Plan (SBP) Eligibility for an Ex-spouse of Military Member |
| | P gives retired military members an opportunity to provide a portion of their retired pay to their survivors following <u>two</u> situations, both of which have a 1 year time limit : |
| | 1. Request by the Military Member: If the military member elected to cover ex-spouse under SBP |
| | prior to the parties' divorce, the divorce would nullify this designation; however the military |
| | member has the option to elect to change their spouse coverage to their now former spouse after |
| | the divorce, <i>if</i> the retired military member makes this request <u>within 1 year of the divorce</u> . |
| | 2. If the military member and the former spouse sign an Agreed Entry to continue SBP with |
| | former spouse coverage, and a QDRO incorporates, ratifies or approves the agreement, the former |
| | spouse may request a deemed election for former spouse coverage if the military retiree fails to |
| | elect that coverage IF the request for a deemed former spouse election is received <u>within 1 year of</u> the divorce. (A divorce decree alone <u>does not</u> constitute a deemed election.) |
| | <u>une divorce</u> . (A divorce decree arone <u>does not</u> constitute a deemed election.) |
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| | Steps to Complete a QDRO (continued) | |
| | nit QDRO/DPO to Court for processing, filing and request return of a d copy. (Some courts require a praecipe.) | |
| 8) Subn | nit certified copy of the court processed QDRO/DPO to the Plan | |
| | PO's in Ohio, the agency must receive a certified copy of the DPO from the clerk's office | |
| 10) Plar qualifie | n formally reviews and determines if it will accept the QDRO as d | |
| • | the QDRO is accepted as qualified, Plan sends notice to P and AP ptance and sends instructions and forms to the AP re how to access s. | |
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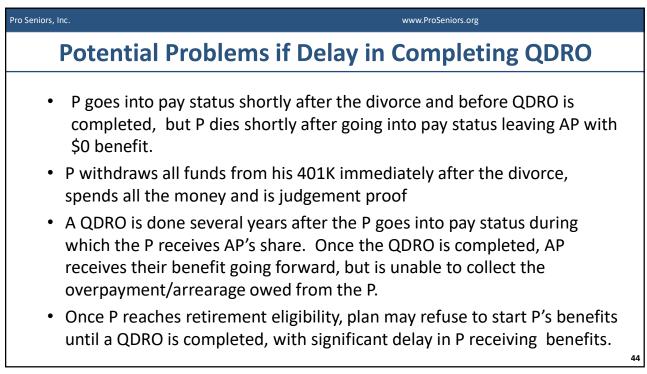
When Should A QDRO be Done?

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- If possible, have the QDRO completed and ready for the parties' signatures at the time of the final hearing
- Prior to the final hearing, obtain any releases needed to complete the QDRO, draft the QDRO and submit the draft to the Plan for pre-approval
- QDRO can also be done after the final hearing, but can run into numerous issues and problems if there is a delay in completing the QDRO.

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When Does the AP Receive Their Share?:

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- Depends on the plan and whether P is in pay out status
- If plan is a DPO, AP doesn't receive a benefit until P goes into pay status
- If a private pension QDRO is shared interest, AP doesn't receive a benefit until P goes into pay status
- If plan is separate interest, AP can generally start receiving benefit as of the P's earliest retirement date (regardless of whether P has started drawing benefits)
- If Plan is 401K, AP can generally receive their share as soon as QDRO is completed, accepted as qualified and processed by the plan.

