

QILDRO

QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS



INFORMATION FOR MEMBERS OF THE GENERAL ASSEMBLY RETIREMENT SYSTEM OF ILLINOIS DURING DIVORCE PROCEEDINGS

QILDRO MAILING CHECKLIST



PLEASE READ THIS IMPORTANT INFORMATION

Your mailing to the General Assembly Retirement System of Illinois (GARS) will be returned unprocessed unless all the following are enclosed:

- ☐ a certified copy of each QILDRO or QILDRO Calculation Order
- ☐ a \$50 check or money order payable to the General Assembly Retirement System of Illinois for each new or modified QILDRO submitted
- ☐ a \$50 check or money order payable to the General Assembly Retirement System of Illinois for each new or modified QILDRO Calculation Order submitted
- ☐ a completed "Consent to Issuance of QILDRO" form
(not required if GARS member began on or after July 1, 1999)
- ☐ a completed "Notice of Confidential Information Within Court Filing" form
(not required if full SSNs are listed on the QILDRO or QILDRO Calculation Order)

Do not enclose Judgment of Dissolution or marital settlement agreement. It will be discarded without review.

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General Overview

This publication is designed to assist members of the General Assembly Retirement System of Illinois (GARS) whose retirement benefits are potentially subject to division and distribution under a Qualified Illinois Domestic Relations Order (or QILDRO) during a marital dissolution proceeding. Under Section 503 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/503), pension benefits accrued during marriage, including pension benefits provided under the Illinois Pension Code, are presumed to be marital property. Consequently, during a divorce proceeding that involves a GARS member (or a member of any other retirement system established under the Illinois Pension Code), a court may, subject to certain limitations, enter a QILDRO to distribute all or a portion of the member's accrued retirement benefits to an alternate payee, typically a former spouse.

The division and distribution of a member's retirement benefits during divorce proceedings is of considerable financial and legal significance. For that reason, it is strongly recommended that GARS members obtain legal and financial advice and other expert assistance from their personal attorneys and other advisors, as needed. This handbook is being provided for general informational purposes only and with the understanding that GARS is not rendering legal, financial, or other professional advice. Furthermore, this publication does not have the force of law and is not intended to and does not implement, apply, interpret, or prescribe any law or policy. If the information in this publication conflicts with any applicable law or administrative rule in any way, the applicable law and administrative rules will prevail. GARS does not assume responsibility for any errors or omissions in this publication or any consequences that may result from application of the information contained in this publication.

The GARS benefit program is administered as a *qualified plan*, as defined under Section 401(a) of the Internal Revenue Code of 1986, as amended, and as a *governmental plan*, as defined under Section 414(d) of the Internal Revenue Code of 1986, as amended. The System is also a *governmental plan* for purposes of the exemptions and other provisions of the federal Employees Retirement Income Security Act of 1974, as amended.

QILDROs are issued pursuant to Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119).

Contact Information - If you have questions concerning the QILDRO process, you may contact GARS by phone at 217-782-8500, or by emailing GARS@srs.illinois.gov. A copy of this publication and interactive QILDRO forms are also available online at the following address: <https://www2.illinois.gov/sites/SRS/GARS/Resources/Pages/QILDRO-Information.aspx>.

Please note that GARS will accept only the QILDRO forms that are available in this packet and on the GARS website.

Timeline of Events

Consider the following timeline of events when GARS member benefits are anticipated to be subject to a QILDRO.

At least 2 or 3 months before court date:	The member should obtain the QILDRO handbook and necessary forms from the GARS website at: https://www2.illinois.gov/sites/SRS/GARS/Resources/Pages/QILDRO-Information.aspx . Paper copies of these materials are also available upon request by calling 217-782-8500 or by emailing gars@srs.illinois.gov .
At least 45 days before needed:	The member should submit a request to GARS for a statement of accumulated contributions, accrued benefits, and other interests in the plan administered by GARS ("QILDRO statement"). The member may make the request by calling GARS at 217-782-8500 or by emailing gars@srs.illinois.gov . This information is provided to current and former spouses and third parties, such as attorneys, only in response to a subpoena or with the member's written authorization.
Within 45 days after GARS receives a request for benefit information:	GARS will send the QILDRO statement based on data on file with GARS on the date the request is received.
On your court date:	An Illinois court may, in its discretion, enter a QILDRO. A <u>certified</u> copy of the court order may be obtained from the Clerk of Court.
Immediately after your court date:	Send a <u>certified</u> copy of the QILDRO to GARS, accompanied by a \$50 processing fee. The check or money order for the processing fee must be made payable to GARS. The QILDRO must contain the Social Security numbers of the member and the alternate payee. If Social Security numbers are not shown on the QILDRO, the "Notice of Confidential Information Within Court Filing" form must be included. Finally, the QILDRO must also be accompanied by a signed "Consent to Issuance of QILDRO" form, unless the QILDRO is for a person whose GARS membership date is on or after July 1, 1999.

Within 45 days after
GARS receives the
QILDRO:

GARS will send a notice to the parties regarding the validity of the QILDRO. If the QILDRO is not valid, it will be returned to the sender along with a letter explaining why it is not valid.

If the QILDRO is valid and does not allocate benefits on a percentage basis, see the entry below regarding receipt of payments.

If the QILDRO is valid and allocates benefits on a percentage basis and if the member has retired, then GARS will provide a packet that contains the information required under Section 1-119(h)(1.5)(C) of the Illinois Pension Code (“Post-Retirement QILDRO Calculation Order Packet”) and advise the parties of the need to file with GARS a certified copy of a QILDRO Calculation Order, accompanied by a \$50 processing fee made payable to GARS. The QILDRO Calculation Order must contain the Social Security numbers of the member and the alternate payee. If Social Security numbers are not shown, the “Notice of Confidential Information Within Court Filing” form must also be included in the mailing to GARS.

If the QILDRO is valid and allocates benefits on a percentage basis and if the member has not retired, then GARS will provide a packet that contains the information required under Section 1-119(h)(1.5)(B) (“Pre-Retirement QILDRO Calculation Order Packet”), including the member’s anticipated retirement date (if known) and advise the parties of the need to file with GARS a certified copy of a QILDRO Calculation Order, accompanied by a \$50 processing fee made payable to GARS. If a QILDRO Calculation Order has not been filed with the System at the time that the System receives an application for benefits subject to division under the QILDRO, GARS will provide another packet that contains the information required under Section 1-119(h)(1.5)(C) (“Post-Retirement QILDRO Calculation Order Packet”) and again advise the parties of the need to file with GARS a certified copy of a QILDRO Calculation Order, accompanied by a \$50 processing fee made payable to GARS. The QILDRO Calculation Order must contain the Social Security numbers of the member and the alternate payee. If Social Security numbers are not shown, the “Notice of Confidential Information Within Court Filing” form must also be included in the mailing to GARS.

Within 45 days after GARS receives the QILDRO Calculation Order:

GARS will send a notice to the parties regarding the validity of the QILDRO Calculation Order. If the QILDRO Calculation Order is not valid, it will be returned to the sender along with a letter explaining why it is not valid.

Receipt of Payments:

The alternate payee will typically receive the first payment at the time of the first payment to the member or member's beneficiary occurring at least 30 days after the retirement system receives the valid QILDRO or, if necessary, QILDRO Calculation Order.

Why Are Retirement Benefits Distributed through QILDROs?

In marital dissolution proceedings, a common issue is the manner and extent to which a person's retirement benefits may be distributed to his or her former spouse. Although the federal Employee Retirement Income Security Act of 1974 (ERISA) recognizes that pension benefits accrued during marriage are marital property and requires retirement plans offered by *private* employers to provide for the division and distribution of retirement plan benefits under Qualified Domestic Relations Order (QDROs), ERISA does not govern governmental plans. As a result, the benefits provided through the General Assembly Retirement System of Illinois (and other governmental plans) are not subject to division and distribution under QDROs.

Nevertheless, since July 1, 1999, Illinois law has allowed the retirement benefits and contribution refunds provided under the Illinois Pension Code, including those provided by GARS, to be divided and distributed to **alternate payees** during divorce proceedings through **Qualified Illinois Domestic Relations Orders (QILDROs)**, as more fully described in Section 1-119 of the Illinois Pension Code. See 40 ILCS 5/1-119. On July 1, 2006, Public Act 94-657 expanded the reach of Section 1-119 of the Illinois Pension Code to allow QILDROs to be entered for death benefits and to allow retirement benefits to be distributed on a percentage basis using QILDRO Calculation Court Orders (QCOs).

Because Section 1-119 of the Illinois Pension Code and the Board's QILDRO rules set out very specific requirements, it is critical for members to contact their personal attorneys with any questions that they may have about whether a former spouse is entitled to a portion of their GARS benefits. GARS cannot provide legal or financial guidance to members on these or any other matters.

Who May Be an Alternate Payee?

An alternate payee is a person to whom benefits are directed under a QILDRO and may be a spouse, former spouse, child, or other dependent of a member. 40 ILCS 5/1-119. As used in this publication, the term “spouse” includes a “party to a civil union” as that term is defined in the Illinois Religious Freedom Protection and Civil Union Act. 750 ILCS 75/20.

Which Benefits Are Affected by a QILDRO?

Monthly Retirement Benefit: An alternate payee may receive all or a portion of a member’s monthly retirement benefit and potentially annual increases in that benefit.

Termination Refund: An alternate payee may receive all or a portion of a member’s termination refund. GARS will refund the total amount of contributions accrued by the member during the member’s service. No interest is payable on a termination refund.

Partial Refund: An alternate payee may receive all or a portion of a member’s partial refund. The type of partial refund that is payable at retirement and that is divisible under a QILDRO includes:

- 1) *Survivor Contribution Refunds* – If the member indicates on the pension application that the member is not currently married, does not have any minor children, full-time students ages 18 to 22, adult disabled children, or dependent parents, then the member will be eligible for a refund of this portion of contributions.

NOTE: The QILDRO form has separate spaces for each type of refund.

If there is an amount indicated on the QILDRO for a partial refund, the total amount that the alternate payee will receive from the partial refund must not exceed the dollar amount specified in the QILDRO.

Lump-Sum Death Benefit: An alternate payee may receive all or a portion of a member’s lump-sum death benefit. A lump-sum death benefit is a non-periodic benefit payable upon the death of a member to a survivor of the member, the member’s estate, or one or more designated beneficiaries.

Which Retirement Benefits Are Not Affected by a QILDRO?

A QILDRO *does not* apply to or affect the payment of any of the following benefits:

- 1) survivor benefits;
- 2) disability benefits;
- 3) life insurance benefits; or
- 4) health insurance benefits.

A QILDRO that purports to apply to any of these benefits is invalid.

How Can I Obtain Retirement Benefit Information for Divorce?

A divorcing member may be required by law to provide other parties or the courts with information regarding the value of his or her retirement account. The “Annual Benefit Statement of Account” and “Retiree Statement of Account” provide information concerning a member’s account. These statements may provide the member with enough information for divorce purposes, and the member may also visit the GARS Member Services website (www.srs.illinois.gov) to view updated account information as well.

If benefit information is desired specifically for divorce purposes, the member should submit a request to GARS for the statement of account described under subsection (h)(1) of Section 1-119 of the Illinois Pension Code (“QILDRO Statement”) not later than 45 days before that information is needed. The member may make the request by calling GARS at 217-782-8500 or by emailing Gars@srs.illinois.gov. In response to this request, GARS will provide the member with a more detailed information packet.

The information in this packet is provided to spouses (current and former) and third parties, including attorneys, only in response to a subpoena or with the member’s written authorization. Within 45 days after receiving the request or subpoena, GARS will provide the requested information.

GARS does not provide actuarial calculations of the present value of a member’s benefits or other interests. GARS does not assume future events such as early or reciprocal retirement, additional service credit, future salary increases, or statutory changes. GARS does not provide benefit information for marital periods or specific years. If a member is not yet vested, a retirement annuity estimate will not be provided. GARS will provide accrued retirement benefits as of the date of the subpoena or member’s authorization.

Once you receive this information from GARS, share it with your personal attorney and financial advisors so they may advise you and perform any additional calculations needed to complete the QILDRO and QILDRO Calculation Order in accordance with your dissolution documents. GARS cannot provide this assistance to you.

Which Forms Should I Use?

The Illinois Pension Code mandates the use of standardized “Consent to Issuance of QILDRO,” “Qualified Illinois Domestic Relations Order (QILDRO),” and “QILDRO Calculation Order (QCO)” forms. Electronic copies of these forms are available online at: <https://www2.illinois.gov/sites/SRS/GARS/Resources/Pages/QILDRO-Information.aspx>. If a QILDRO calls for a division of benefits on a percentage basis, the “QILDRO Calculation Order” form is used by the parties and an Illinois court, in conjunction with the QILDRO, to identify for GARS the specific amount of the benefit or refund to be paid to the alternate payee. As a reminder, GARS will not perform calculations needed to complete a QCO.

The "Consent to Issuance of QILDRO" form is required for GARS members who are seeking a QILDRO and became GARS members before July 1, 1999. GARS will accept a QILDRO from this class of GARS members only after receiving a signed and completed "Consent to Issuance of QILDRO" form. Without that form, GARS is prohibited by Article XIII, Section 5 of the Illinois Constitution from accepting a QILDRO from the member. The consent form is required even if a court has entered a QILDRO against that member. Once signed and submitted to GARS, the consent form becomes irrevocable.

NOTE: The forms described above are statutory forms that should not be altered. Alterations of the forms may invalidate them. However, if submitting a modified or amended QILDRO (or QILDRO Calculation Order), you may write the word "MODIFIED" or "AMENDED" at the top of the first page of the QILDRO (or QILDRO Calculation Order) without invalidating the order.

How Do I File a QILDRO or QILDRO Calculation Order with GARS?

A certified copy of the QILDROs and/or QILDRO Calculation Order should be mailed to the following address with a check or money order made payable to GARS in the amount of the processing fee described below:

General Assembly Retirement System of Illinois
2101 South Veterans Parkway
P.O. Box 19255
Springfield, IL 62794-9255

Each QILDRO must be accompanied by a non-refundable \$50.00 processing fee, and each QILDRO Calculation Order must also be accompanied by a non-refundable \$50.00 processing fee. A separate \$50.00 fee is also required each time a new or modified QILDRO or QILDRO Calculation Order is submitted to GARS. However, an increase in the amount payable to the alternate payee due to an automatic annual increase in the member's retirement benefit does not constitute a modification of a QILDRO.

Unless the GARS member began service on or after July 1, 1999, the member must also include in the mailing a completed copy of the "Consent to Issuance of QILDRO" form. And if full Social Security numbers are not included on the applicable court order, then the member must also include a completed copy of the "Notice of Confidential Information Within Court Filing" form.

The QILDRO or QILDRO Calculation Order will be deemed received on the date GARS receives and date stamps the order.

Requirements for a Valid QILDRO (or QILDRO Calculation Order)

For the System to accept a court order as a valid QILDRO or QILDRO Calculation Order, the order must satisfy **all** the following requirements:

- 1) Each court order must be accompanied by a \$50.00 processing fee made payable to GARS. The court order will not be accepted for processing until the \$50 fee is received for that order.
- 2) If the order is a QILDRO and it applies to a person who became a GARS member before July 1, 1999, it must be accompanied by the "Consent to Issuance of QILDRO" form signed by the member.
- 3) A certified copy of the court order must be filed with GARS. A FILE-STAMPED COPY OF THE COURT ORDER WILL BE REJECTED.
- 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 the property, or in a proceeding to amend or enforce such a property distribution. If the court order is a QILDRO, it must also have been issued by the Illinois court prior to the death of the member. Courts in other states do not have statutory authority or jurisdiction to issue QILDROs or QILDRO Calculation Orders. However, an Illinois court may be asked to enter a QILDRO based on an out-of-state divorce. Please seek advice from your personal attorney if you were divorced in a state other than Illinois and wish to obtain a QILDRO or QILDRO Calculation Order.
- 5) The order must contain the name, residential address, and social security number of the GARS member and the alternate payee. The member and the alternate payee may exclude Social Security numbers from the order, but to do so, they must provide a copy of the "Notice of Confidential Information Within Court Filing" form, which contains the Social Security numbers of the member and alternate payee.
- 6) The order must identify the General Assembly Retirement System of Illinois as the retirement system to which it is directed.
- 7) If the order is a QILDRO, it must specify the dollar amount or percentage of the Monthly Retirement Benefit, Termination Refund, Partial Refund, and/or Lump-Sum Death Benefit payable to the alternate payee. If the order is a QILDRO Calculation Order, it must clearly indicate the dollar amount of the Monthly Retirement Benefit, Termination Refund, Partial Refund, and/or Lump-sum Death Benefit that GARS is to pay to the alternate payee.
- 8) The order must apply only to benefits that are statutorily subject to QILDROs.

- 9) The order must use the statutorily required form. Copies of the forms are available on the “GARS QILDRO Handbook and Forms” website (<https://www2.illinois.gov/sites/SRS/GARS/Resources/Pages/QILDRO-Information.aspx>).
- 10) With respect to each benefit to which it applies, a QILDRO must specify when the order will take effect.
- 11) A QILDRO Calculation Order must not be completed in a manner that changes the intent of the QILDRO to which it relates.

Please note - QILDRO and QCOs are not valid until all errors have been corrected.

The divorcing couple and their attorneys decide how to complete the QILDRO and Calculation Order. GARS cannot assist with these decisions, perform any calculations for you, or tell you whether the numbers in the QILDRO or Calculation Order are accurate with what was decided in the divorce.

What Is the Effect of a Valid QILDRO on Monthly Retirement Benefits?

Active and Inactive Members

Dollar-Basis QILDRO: If a QILDRO provides for the allocation of a monthly retirement benefit on a dollar basis, the QILDRO will be placed in the member’s record and will be implemented when the member’s first affected benefit payment commences.

Percentage-Basis QILDRO: If a QILDRO provides for the allocation of a monthly retirement benefit on a percentage basis (i.e., either on a gross percentage basis or on a marital portion percentage basis), then the QILDRO will be placed in the member’s record. If a QILDRO Calculation Order (QCO) is not filed along with the QILDRO, then, within 45 days after the QILDRO’s receipt, GARS will advise the parties of the need to obtain and file with GARS a certified copy of a QCO, accompanied by a \$50 processing fee made payable to GARS. At that time, the System will also provide the parties to the divorce proceeding with a “Pre-Retirement QILDRO Calculation Order Packet,” which contains the information required under Section 1-119(h)(1.5)(B) of the Illinois Pension Code. If a QCO is still not on file with the System at the time that the System receives the member’s application for retirement benefits, then GARS will again advise the parties of the need to file with GARS a certified copy of a QCO, accompanied by a \$50 processing fee made payable to GARS, and it will provide the parties with the “Post-Retirement QILDRO Calculation Order Packet,” which contains the information required under Section 1-119(h)(1.5)(C) of the Illinois Pension Code. If a valid QCO is not received in time to affect the member’s first month’s reduction, GARS may estimate an anticipated reduction based on information in the QILDRO, if it is possible to do so. GARS 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 QCO. Once the QCO is received, GARS will adjust the amount payable in accordance with the QCO and begin paying the alternate payee. However, if it is not possible for GARS to determine an anticipated reduction payment based solely on the

QILDRO, then neither the member nor the alternate payee will be paid until a valid QCO is received.

Retired Members

Dollar-Basis QILDRO: If a QILDRO provides for the allocation of a monthly retirement benefit on a dollar basis, payment to the alternate payee will typically be effective on the first payment to the retired member occurring at least 30 days after GARS receives the valid QILDRO. GARS will respond in writing to all parties referenced in the QILDRO advising them of the receipt date and the first full month the QILDRO will be effective.

Percentage-Basis QILDRO: If a QILDRO provides for the allocation of a monthly retirement benefit on a percentage basis (i.e., either on a gross percentage basis or on a marital portion percentage basis), then the QILDRO will be placed in the retired member's record. If a QILDRO Calculation Order (QCO) is not filed along with the QILDRO, then, within 45 days after the QILDRO's receipt, GARS will advise the parties of the need to obtain and file with GARS a certified copy of a QCO, accompanied by a \$50 processing fee made payable to GARS. At that time, the System will also provide the parties to the divorce proceeding with the "Post-Retirement QILDRO Calculation Order Packet," which contains the information required under Section 1-119(h)(1.5)(C) of the Illinois Pension Code. If a valid QCO is not received in time to affect the member's first month's reduction, GARS may estimate an anticipated reduction based on information in the QILDRO, if it is possible to do so. GARS 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 QCO. Once the QCO is received, GARS will adjust the amount payable in accordance with the QCO and begin paying the alternate payee. However, if it is not possible for GARS to determine an anticipated reduction payment based solely on the QILDRO, then neither the member nor the alternate payee will be paid until a valid QCO is received.

What Is the Effect of a Valid QILDRO on Refunds?

Dollar-Basis QILDRO: If the QILDRO provides that the refund or partial refund will be allocated on a dollar 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.

Percentage-Basis QILDRO: If the QILDRO provides that the refund or partial refund will be allocated on a percentage basis and a QILDRO Calculation 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 the parties of the need for a QILDRO Calculation Order (QCO). The System will hold the refund or partial refund until the QCO is received.

Application for Refund Pending When QILDRO Is Received: 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.

QILDRO Received after Refund Is Vouchered: If a refund payment has already been vouchered when the System receives a QILDRO that purports to apply to the refund, the QILDRO will not be effective against that refund.

What Is the Effect of a Valid QILDRO on Death Benefits?

Dollar-Basis QILDRO: If a QILDRO provides that a death benefit will be allocated on a dollar 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.

Percentage-Basis QILDRO: If a QILDRO provides that the death benefit will be allocated on a percentage basis and a QILDRO Calculation Order (QCO) is not on file when the System is notified of the death of the member, the System will notify the beneficiary on file and the alternate payee of the amount of the death benefit and will advise them of the need for a QCO. The System will hold the death benefit until the QCO is received.

Application for Death Benefit Pending When QILDRO 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 beneficiary or alternate payee's responsibility to obtain clarification from the court and to notify the System of the court's clarification.

QILDRO Received after Death Benefit Is Vouchered: 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.

Importance of Maintaining a Current Address for Alternate Payee

Alternate payees are responsible for keeping GARS informed of their current addresses. Before the System can direct a payment to an alternate payee, it must have the alternate payee's current address and payment information. GARS does not have a legal obligation to search for a missing alternate payee. Its only obligation in this regard is to attempt to locate the alternate payee by sending the written notification of benefits described below.

What is a Notification of Benefits?

When a member becomes eligible to receive a retirement benefit or refund (or when a death benefit becomes payable because of the death of a member) and there is a

QILDRO on file for the member, GARS will send a written notice via certified mail to the last known address of the alternate payee listed on the QILDRO. That notice will request that the alternate payee complete and return:

- 1) a form to verify the current name, address, date of birth, address, and Social Security number;
- 2) a W-4P federal tax withholding election form; and
- 3) a direct deposit agreement form.

If the alternate payee timely responds and GARS, as a result, can locate the alternate payee within 180 days after the applicable benefit becomes payable, then GARS will pay the amount held to the alternate payee. If the alternate payee does not timely respond to the notice and GARS, as a result, is unable to locate the alternate payee within 180 days after the applicable benefit becomes payable, then the System is required to direct the benefit and the amounts held to the regular payee (i.e., the person to whom the benefit would be payable in the absence of an effective QILDRO). However, if the alternate payee is subsequently located by the System, the System will thereupon implement the QILDRO, beginning with the first payment occurring at least 30 days after the current address becomes known, but the interest of the alternate payee in any amounts already paid to the regular payee is extinguished.

Amount Payable to an Alternate Payee

An alternate payee is eligible to receive payment only if the GARS member becomes eligible and applies for a retirement benefit or refund (or a death benefit becomes payable). A QILDRO cannot order payment to an alternate payee that would not otherwise have been payable to the member or a beneficiary.

A QILDRO must specify the dollar amount or percentage payable to the alternate payee. GARS cannot calculate the amount from a formula. If the QILDRO states a formula rather than a dollar amount or percentage, the QILDRO will be invalid. The QILDRO form allows the parties to elect whether the amount payable to the alternate payee will or will not increase proportionately if the member's retirement benefit increases due to post-retirement cost of living adjustments or automatic annual increases. The election must be designated by checking the appropriate box on the QILDRO form. *If an election is not made, GARS will presume that the alternate payee is not entitled to a proportionate share of the automatic annual increases in the member's share.*

If the amount payable to an alternate payee exceeds the actual amount of the benefit payable to the member, the excess will be disregarded. If there are multiple valid QILDROs against a member, GARS will honor all the QILDROs to the extent possible. If the total amount payable to all alternate payees exceeds the actual amount of the benefit, the QILDROs will be satisfied in the order that they were received, as is indicated by the date upon which they were date stamped by the System. Amounts payable to multiple alternate payees will not be adjusted *pro rata*. Amounts that cannot be paid because the benefit is not large enough to cover all amounts payable will be

disregarded. GARS is not responsible to an alternate payee or any other person for amounts that remain unpaid because the benefit is not large enough.

Completing the QILDRO and QILDRO Calculation Court Order Forms

To begin completing the QILDRO, the member, alternate payee, and their legal representatives will decide:

- 1) which benefits will be divided;
- 2) when the allocation of benefits will begin;
- 3) when the allocation of benefits will end;
- 4) whether the alternate payee will share in automatic annual increases in benefits; and
- 5) whether the allocation of benefits will be on a flat-dollar basis, a percentage-of-marital-portion basis, or a percentage-of-gross-benefit basis (calculated at the time the benefit commences or becomes payable).

Based on how these decisions are made, it may be necessary for Section IX of the QILDRO (i.e., the marital portion of benefit calculation) to be completed and for a QILDRO Calculation Court Order (QCO) to be obtained. The chart below is designed to assist members with determining whether the completion of a specific portion of a QILDRO will require the member to complete Section IX of the QILDRO or obtain a QILDRO Calculation Court Order. Once the QILDRO and, if necessary, QILDRO Calculation Order have been completed and approved by the court, they must be filed with GARS.

QILDRO & QILDRO Calculation Court Order Comparison Chart

<i>If QILDRO Section(s) Are Completed</i>	<i>Complete QILDRO Section (IX)</i>	<i>Complete Corresponding Section in QCO</i>
(III)(A)(1)	NO	N/A
(V)(A)(1)	NO	N/A
(VI)(A)(1)	NO	N/A
(VII)(A)(1)	NO	N/A
(III)(A)(2)	YES	(3)(a)
(V)(A)(2)	YES	(3)(b)
(VI)(A)(2)	YES	(3)(c)
(VII)(A)(2)	YES	(3)(d)
(III)(A)(3)	NO	(4)(A)
(V)(A)(3)	NO	(4)(B)
(VI)(A)(3)	NO	(4)(C)
(VII)(A)(3)	NO	(4)(D)

Member's Election of Form of Payment

A member whose benefit is subject to a QILDRO may not elect a form of payment that would diminish the amount payable to the alternate payee unless the alternate payee has consented to the election in writing. If a member wants to make an election that would diminish the amount payable to the alternate payee, GARS is statutorily required to reject the election and advise the member of the need to obtain the alternate payee's consent. GARS will send the member a consent form that must be completed and returned to GARS.

Modified/Amended QILDROs

A modified or amended QILDRO/QILDRO Calculation Order should be filed with GARS in the same manner as a new QILDRO/ QILDRO Calculation Order. A separate \$50.00 processing fee payable to GARS must be paid each time a new order is submitted. If the modified or amended QILDRO applies to a person who was a member prior to July 1, 1999, the member's initial signed Consent to Issuance of QILDRO form on file with GARS will satisfy the consent requirement. An increase in the amount payable to the alternate payee due to an automatic annual increase to the member's retirement benefit does not constitute a modification of a QILDRO.

A modified or amended QILDRO will hold the same priority of payment that the original QILDRO held, as-long-as the modified or amended QILDRO does not increase the amount of any benefit payable to the alternate payee or affect a different benefit. If a modified or amended QILDRO increases the amount of the benefit or affects a different benefit, the modified or amended QILDRO will lose the priority held by the original QILDRO. Priority of payment will then be based on the date GARS received the modified or amended QILDRO.

If the benefit is subject to multiple QILDROs, losing the original QILDRO priority may result in a reduced payment to the alternate payee. If the benefit is not large enough to pay the total due under all QILDROs, only the amount remaining after all other QILDROs have been paid will be available. Modifications to a QILDRO Calculation Order will not change the priority of an underlying QILDRO.

Expiration of QILDRO

A QILDRO expires upon the death of the alternate payee. The right to receive the affected benefit will then revert to the member.

A QILDRO expires upon the death of the member unless the QILDRO allocates any lump sum death benefits that may be payable to an alternate payee.

A QILDRO expires after a specified number of payments are made to the alternate payee under Section III(D)(2) of the QILDRO, unless the alternate payee is entitled to any lump sum death benefits.

A QILDRO expires when the member takes a refund that terminates the member's participation in GARS. This is true even if the member's refund is paid to an alternate payee. A QILDRO that expires because the member takes a refund is not automatically renewed by the member's subsequent return to GARS membership.

A QILDRO may also be terminated by a valid court order expressly terminating the QILDRO.

Income Tax Reporting

By January 31 of each year, the Illinois State Comptroller will send each GARS annuitant and alternate payee an annual income tax withholding tax form (IRS Form 1099-R), which indicates the taxable and non-taxable portion of benefits received from GARS for the previous calendar year.

Glossary

Alternate Payee – The spouse/partner, former spouse/partner, child, or other dependent of a member, as designated in a QILDRO. [40 ILCS 5/1-119(a)(1)]

Death Benefit – Any nonperiodic benefit payable upon the death of a member to a survivor of the member or to the member's estate or designated beneficiary, including any refund of contributions following the member's death, whether the benefit is so called under the applicable Article of the Illinois Pension Code. [40 ILCS 5/1-119(a)(2)]

Disability Benefit – Any periodic or nonperiodic benefit payable to a disabled member based on occupational or nonoccupational disability or disease, including any periodic or nonperiodic increases in the benefit, whether the benefit is so called under the applicable Article of the Illinois Pension Code. [40 ILCS 5-1-119(a)(3)]

Member – Any person who participates in or has service credit in GARS, including a person who is receiving or is eligible to receive a retirement or disability benefit, without regard to whether the person has withdrawn from service. [40 ILCS 5/1-119(a)(4)]

Member's Refund – A return of all or a portion of a member's contributions that is elected by the member (or provided by operation of law) and is payable before the member's death. [40 ILCS 5/1-119(a)(5)]

Permissive Service – Service credit purchased by the member that the retirement system includes by statute in a member's benefit calculation.

QILDRO (Qualified Illinois Domestic Relations Order) – An Illinois court order that creates or recognizes the existence of an alternate payee's right to receive all or a portion of the member's accrued benefits in GARS, is issued pursuant to Section 1-119 of the Illinois Pension Code and Section 503(b)(2) of the Illinois Marriage and Dissolution of Marriage Act and meets the requirements of Section 1-119 of the Illinois Pension Code. A QILDRO is not

the same as a Qualified Domestic Relations Order (“QDRO”) or a QILDRO issued pursuant to Section 414(p) of the internal Revenue Code of 1986. [40 ILCS 5/1-119(a)(6)]

QILDRO Calculation Court Order (QCO) – An Illinois Court order that provides the amount of the monthly retirement benefit, termination refund, partial refund, or lump-sum death benefit that is subject to a QILDRO allocation of benefits on a percentage basis as issued pursuant to Section 1-119 of the Illinois Pension Code.

Regular Payee – The person to whom a benefit would be payable in the absence of an effective QILDRO. [40 ILCS 5/1-119(a)(7)]

Regular Service – Service credit earned by the member, including a repayment of a refund for regular service that the retirement system includes by statute in a member’s benefit calculations.

Retirement Benefit - Any periodic benefit payable to a retired member based on age or service, including any periodic or nonperiodic increases in the benefit, whether the benefit is so called under the applicable Article of the Illinois Pension Code. [40 ILCS 5/1-119(a)(8)]

Surviving Spouse - The spouse of a member at the time of the member’s death. [40 ILCS 5/1-119(a)(10)]

Survivor’s Benefit - Any periodic benefit payable to a surviving spouse, child, parent, or other survivor of a deceased member, including any periodic or nonperiodic increases in the benefit or nonperiodic payment included with the benefit, whether the benefit is so called under the applicable Article of the Illinois Pension Code. [40 ILCS 5/1-119(a)(11)]