

# State of Wisconsin



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1997 Assembly Bill 118

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## 1997 WISCONSIN ACT 125

AN ACT to amend 40.08 (1m) (f) 1., 40.08 (1m) (f) 2. and 40.08 (1m) (j); and to create 40.08 (1m) (f) 3. and 40.08 (1m) (k) of the statutes; relating to: qualified domestic relations orders under the Wisconsin retirement system.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 40.08 (1m) (f) 1. of the statutes is amended to read:

40.08 (1m) (f) 1. If Subject to subd. 3., if the participant is not an annuitant on the decree date, an amount equal to the total of the alternate payee share distributed under par. (e), including creditable service, shall be subtracted from the participant's account.

**SECTION 2.** 40.08 (1m) (f) 2. of the statutes is amended to read:

40.08 (1m) (f) 2. If Subject to subd. 3., if the participant is an annuitant on the decree date, the annuity shall be recomputed using the total value of the participant's account determined under par. (b) reduced by the total of the alternate payee share transferred under par. (e) 1., in accordance with the actuarial tables in effect and using the participant's age on the decree date. The decree date shall be the effective date of recomputation. If the optional annuity form before division of the participant's account under par. (b) was not a joint and survivor annuity with the alternate payee as the named survivor, the same annuity option with no change in the remaining guarantee period, if any, shall be continued upon recomputation to the participant. The present value of the alternate payee's share of the annuity after division shall be paid to the alternate payee as a straight life annuity based on the age

of the alternate payee on the decree date. The alternate payee's annuity shall have the same remaining guarantee period, if any, as the participant's annuity. If the optional annuity form before division of the participant's account under par. (b) was a joint and survivor annuity with the alternate payee as the named survivor, the present value of the annuity after division shall be paid to both the participant and the alternate payee as a straight life annuity based upon their respective ages on the decree date. If the participant's account is reestablished under s. 40.26 (2) after the decree date, the memorandum account created under s. 40.26 (2) (b) shall be adjusted by the total of the alternate payee share computed under this subdivision. If the participant's account is reestablished under s. 40.63 (10) after the decree date, the amounts and creditable service reestablished shall be reduced by an amount equal to the percentage of the alternate payee share computed under this subdivision.

**SECTION 3.** 40.08 (1m) (f) 3. of the statutes is created to read:

40.08 (1m) (f) 3. For any participant whose marriage is terminated by a court during the period that begins on January 1, 1982, and ends on April 27, 1990, and for whom the department receives a qualified domestic relations order after the effective date of this subdivision .... [revisor inserts date], the division of benefits may not apply to any benefits paid to the participant before the date

\* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

on which the department receives the qualified domestic relations order.

**SECTION 4.** 40.08 (1m) (j) of the statutes is amended to read:

40.08 **(1m)** (j) This subsection applies to qualified domestic relations orders issued on or after ~~April 28, 1990~~ January 1, 1982, that provide for divisions of the accumulated rights and benefits of participants whose marriages have been terminated by a court on or after ~~April 28, 1990~~ January 1, 1982.

**SECTION 5.** 40.08 (1m) (k) of the statutes is created to read:

40.08 **(1m)** (k) 1. Nothing in this subsection authorizes a court to revise or modify a judgment or order with respect to a final division of property under s. 767.255, in contravention of s. 767.32 (1) (a).

2. Notwithstanding subd. 1., a court may revise or modify a judgment or order specified under subd. 1. for participants whose marriages were terminated by a court on or after January 1, 1982, and before April 28, 1990, but only with respect to providing for payment in accordance with a qualified domestic relations order of benefits under the Wisconsin retirement system that are already divided under the judgment or order.

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