

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2568

By: Boyd (Laura)

COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; amending 11 O.S. 1991, Section 48-103, which relates to municipal retirement systems; providing certain property not subject to certain civil process; providing exceptions; defining term; prescribing procedures related to qualified domestic orders; amending 11 O.S. 1991, Section 49-126, as amended by Section 4, Chapter 322, O.S.L. 1993 (11 O.S. Supp. 1997, Section 49-126), which relates to the Oklahoma Firefighters Pension and Retirement System; modifying provisions related to qualified domestic orders; authorizing orders related to support of certain children; amending 11 O.S. 1991, Section 50-124, as amended by Section 5, Chapter 322, O.S.L. 1993 (11 O.S. Supp. 1997, Section 50-124), which relates to the Oklahoma Police Pension and Retirement System; modifying provisions related to qualified domestic orders; authorizing orders related to support of certain children; amending 19 O.S. 1991, Section 959, which relates to county retirement systems; providing certain property not subject to certain civil process; providing exceptions; defining term; prescribing procedures related to qualified domestic orders; amending 20 O.S. 1991, Section 1111, as amended by Section 7, Chapter 322, O.S.L. 1993 (20 O.S. Supp. 1997, Section 1111), which relates to the Uniform Retirement System for Justices and Judges; modifying provisions related to qualified domestic orders; authorizing orders related to support of certain children; modifying provisions related to applicability of qualified domestic orders to certain retirement benefit program; amending 29 O.S. 1991, Section 3-306, as last amended by Section 4, Chapter 81, O.S.L. 1995 (29 O.S. Supp. 1997, Section 3-306), which relates to the Oklahoma Wildlife Conservation Department Retirement Fund; providing certain property not subject to certain civil process; providing exceptions; defining term; prescribing procedures related to qualified domestic orders; amending 47 O.S. 1991, Section 2-303.3, as amended by Section 12, Chapter 322, O.S.L. 1993 (47 O.S. Supp. 1997, Section 2-303.3), which relates to the Oklahoma Law Enforcement Retirement System; modifying provisions related to qualified domestic orders; authorizing orders related to support of certain children; amending 70 O.S. 1991, Section 17-109, as amended by Section 17, Chapter 322, O.S.L. 1993 (70 O.S. Supp. 1997, Section 17-109), which relates to the Teachers' Retirement System of Oklahoma; modifying provisions related to qualified domestic orders; authorizing orders related to support of certain children; amending 74 O.S. 1991, Section 923, as amended

by Section 28, Chapter 322, O.S.L. 1993 (74 O.S. Supp. 1997, Section 923), which relates to the Oklahoma Public Employees Retirement System; modifying provisions related to qualified domestic orders; authorizing orders related to support of certain children; modifying provisions related to applicability of qualified domestic orders to certain retirement benefit program; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 1991, Section 48-103, is amended to read as follows:

Section 48-103. A. Every municipality establishing a retirement fund and system shall provide a fund or contribute to a fund which shall be paid to and received by the municipal treasurer along with funds received from a duly constituted authority of the municipality for the use and benefit of the persons eligible for retirement benefits in such amount as the municipality shall provide by ordinance.

B. Money on hand in this fund shall not be available for any other purpose and shall not be used for any purpose other than for retirement benefits to eligible persons.

C. Except as otherwise provided by this section, sums of money due or to become due to any employee or retired employee shall not be liable to attachment, garnishment, levy, or seizure in any manner under any legal or equitable process, whether such sums remain in the hands of the treasurer of the retirement system or of any official or agent of the retirement system, or are in the course of transmission to the employee or retired employee entitled thereto, but shall inure wholly to the benefit of such employee or retired employee.

D. 1. The provisions of subsection C of this section shall not apply to a qualified domestic order as provided in this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state, pursuant to the domestic relations laws of the State of Oklahoma, which relates to the provision of marital property rights to a spouse or former spouse

of a member of any retirement fund created pursuant to subsection A of this section, or to the provision of support for a minor child or children, and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member and amounts payable to a plan participant of any retirement plan created pursuant to subsection A of this section.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the municipality and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address, if any, of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the retirement system to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the retirement system to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the retirement system,

- b. does not require the retirement system to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the retirement plan as a valid order prior to the effective date of this section.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

8. The obligation of the retirement system to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A., Section 1001 et seq., as amended from time to time, or rules promulgated thereunder and court cases interpreting said act.

10. The municipality may adopt such provisions as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order shall fully comply with all provisions of the requirements imposed by the municipality pursuant to this section in order to continue receiving benefits.

E. This fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the Excise Board for needed appropriations.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 49-126, as amended by Section 4, Chapter 322, O.S.L. 1993 (11 O.S. Supp. 1997, Section 49-126), is amended to read as follows:

Section 49-126. A. Except as otherwise provided by this section, no portion of said pension shall, either before or after its order of distribution by the State Board to such disabled

members of said fire department, or the surviving spouse or guardian of such minor child or children, to the deceased or retired member of such department, be held, seized, taken, subjected to or detained or levied on by virtue of any attachment, execution, injunction, writ interlocutory or other order or decree, or any process or proceeding, whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damages, claim, demand or judgment against such member, or his or her surviving spouse, or the guardian of said minor child or children of any deceased member, nor shall said fund or any claim thereto be directly or indirectly assigned and any attempt to assign or transfer the same shall be void; but the funds shall be held, kept, secured and distributed for the purpose of pensioning the persons named in this article, and for no other purpose whatever.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee's right to payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:
 - a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
 - b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
 - c. the number of payments or period to which such order applies,
 - d. the characterization of the benefit as to marital property rights or child support, and
 - e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Firefighters Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 50-124, as amended by Section 5, Chapter 322, O.S.L. 1993 (11 O.S. Supp. 1997, Section 50-124), is amended to read as follows:

Section 50-124. A. Except as otherwise provided by this section, no portion of any of the funds of the System shall, either before or after any order made by the State Board for payment to any person entitled to a pension or allowance, be held, seized, taken, subjected to, or detained, or levied on by virtue of any garnishment, attachment, execution, injunction, or other order or decree or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against any such person entitled to payment, nor shall said payments or any claim thereto be directly or indirectly assigned, and any attempt to assign or transfer the same shall be void. The said funds shall be held, invested, secured and distributed for the purposes named in this article, and for no other purpose whatever.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee's right to payee, or assigns to an alternate payee

the right, to receive a portion of the benefits payable with respect to a member of the System.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Police Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 4. AMENDATORY 19 O.S. 1991, Section 959, is amended to read as follows:

Section 959. ~~Sums~~ A. Except as otherwise provided by this section, sums of money due or to become due to any employee or retired employee shall not be liable to attachment, garnishment, levy, or seizure in any manner under any legal or equitable process, whether such sums remain in the hands of the treasurer of the retirement system or of any official or agent of the Board of Trustees of any retirement system, or ~~is~~ are in the course of transmission to the employee or retired employee entitled thereto, but shall inure wholly to the benefit of such employee or retired employee.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided in this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state, pursuant to the domestic

relations laws of the State of Oklahoma, which relates to the provision of marital property rights to a spouse or former spouse of a member of a retirement system authorized by Section 951 et seq. of this title, or to the provision of support for a minor child or children, and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member and amounts payable to a plan participant of any retirement system authorized by Section 951 et seq. of this title.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board of Trustees and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address, if any, of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the retirement system to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the retirement system to provide any type or form of benefit, or any option not

otherwise provided under state law as relates to the retirement system,

b. does not require the retirement system to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the retirement plan as a valid order prior to the effective date of this section.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

8. The obligation of the retirement system to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A., Section 1001 et seq., as amended from time to time, or rules promulgated thereunder, and court cases interpreting said act.

10. The Board of Trustees may adopt such provisions as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order shall fully comply with all provisions of the requirements imposed by the Board of Trustees pursuant to this section in order to continue receiving benefits.

SECTION 5. AMENDATORY 20 O.S. 1991, Section 1111, as amended by Section 7, Chapter 322, O.S.L. 1993 (20 O.S. Supp. 1997, Section 1111), is amended to read as follows:

Section 1111. A. Except as otherwise provided by this section, any annuity, benefit, fund, property or right created by or accruing to any person under any provision of The Uniform Retirement System for Justices and Judges, ~~Section 1101 et seq. of~~ Req. No. 9596Page 11

~~this title, are~~ is hereby made and declared exempt from and not subject to execution, garnishment, or attachment or any other process or claim whatsoever, and shall be unassignable except as specifically provided by said act.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate ~~payee's right to~~ payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on The Uniform Retirement System for Justices and Judges and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by The Uniform Retirement System for Justices and Judges to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to The Uniform Retirement System for Justices and Judges,
- b. does not require The Uniform Retirement System for Justices and Judges to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by The Uniform Retirement System for Justices and Judges as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member and shall not attach to or require the payment of any amount of benefits related to a deferred compensation plan or program authorized by Section 1701 et seq. of Title 74 of the Oklahoma Statutes.

8. The obligation of The Uniform Retirement System for Justices and Judges to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Board of Trustees of the Oklahoma Public Employees Retirement System shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board of Trustees of the Oklahoma Public Employees Retirement System pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 6. AMENDATORY 29 O.S. 1991, Section 3-306, as last amended by Section 4, Chapter 81, O.S.L. 1995 (29 O.S. Supp. 1997, Section 3-306), is amended to read as follows:

Section 3-306. A. There is hereby created an Oklahoma Wildlife Conservation Department Retirement Fund for the purpose of providing revenues for any retirement plan adopted by the Commission for the employees of the Department.

B. The method of calculation of benefits shall be the same for all employees covered under any plan adopted pursuant to this section.

C. No retirement plan adopted pursuant to this section shall pay any benefits or vest any benefits based on years of service credit related to years a plan member did not work or provide other public service.

D. The Oklahoma Department of Wildlife Conservation shall compile a quarterly financial report of all the funds of the Oklahoma Wildlife Conservation Department Retirement Fund on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The Department shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the Department. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative

Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

E. Except as otherwise provided by this section, the right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit, or any other right accrued or accruing to any person under the provisions of this section, the monies in the Oklahoma Wildlife Conservation Department Retirement Fund, are hereby exempt from levy and sale, garnishment, attachment or any other process whatsoever, and shall be unassignable except as in this section specifically provided.

F. 1. The provisions of subsection E of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state, pursuant to the domestic relations laws of the State of Oklahoma, which relates to the provision of marital property rights to a spouse or former spouse of a member of any retirement fund created pursuant to subsection A of this section, or to the provision of support for a minor child or children, and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member and amounts payable to a plan participant of any retirement plan created pursuant to subsection A of this section.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Commission or the entity responsible for the Retirement Fund and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address, if any, of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the Commission or the entity responsible for the Retirement Fund to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the Commission or the entity responsible for the Retirement Fund to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the retirement plan,
- b. does not require the Commission or the entity responsible for the Retirement Fund to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the retirement plan as a valid order prior to the effective date of this section.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

8. The obligation of the Commission or the entity responsible for the Retirement Fund to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A., Section 1001 et seq., as amended from time to time, or rules promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Wildlife Conservation Commission shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order shall fully comply with all provisions of the rules promulgated by the Commission pursuant to this section in order to continue receiving benefits.

SECTION 7. AMENDATORY 47 O.S. 1991, Section 2-303.3, as amended by Section 12, Chapter 322, O.S.L. 1993 (47 O.S. Supp. 1997, Section 2-303.3), is amended to read as follows:

Section 2-303.3 A. Except as otherwise provided by this section, any annuity, benefits, fund, property, or rights created by or accruing to any person pursuant to the provisions of Sections 2-300 through 2-313 of this title shall not be subject to execution, garnishment or attachment, and shall be unassignable, except as specifically provided by Sections 2-300 through 2-313 of this title.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee's right to payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have

been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Law Enforcement Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 8. AMENDATORY 70 O.S. 1991, Section 17-109, as amended by Section 17, Chapter 322, O.S.L. 1993 (70 O.S. Supp. 1997, Section 17-109), is amended to read as follows:

Section 17-109. A. Except as otherwise provided by this section, the right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit, or any other right accrued or accruing to any person under the provisions of this act, and the monies in the various funds created by this act, are hereby exempt from levy and sale, garnishment, attachment or any other process whatsoever, and shall be unassignable except as in this act specifically provided.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children

and which creates or recognizes the existence of the right of an alternate payee's right to payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the Retirement System.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board of Trustees and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the Retirement System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the Retirement System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the Retirement System,
- b. does not require the Retirement System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order

previously determined to be a qualified domestic order or an order recognized by the Retirement System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

8. The obligation of the Retirement System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board of Trustees pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 9. AMENDATORY 74 O.S. 1991, Section 923, as amended by Section 28, Chapter 322, O.S.L. 1993 (74 O.S. Supp. 1997, Section 923), is amended to read as follows:

Section 923. A. Except as otherwise provided by this section, no alteration, amendment, or repeal of this act shall affect the then existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal. Any annuity, benefits, fund, property, or rights created by or accruing to any person under the provisions of this act shall not be subject to execution, garnishment or attachment, or any other process or

claim whatsoever, and shall be unassignable, except as specifically provided by this act.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee's right to payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System and amounts payable to a plan participant of the Oklahoma State Employees Deferred Compensation Plan as provided pursuant to Section 1701 et seq. of this title.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member and shall not attach to or require the payment of any amount of benefits related to a deferred compensation plan or program authorized by Section 1701 et seq. of this title.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001 et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Public Employees Retirement System Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 10. This act shall become effective November 1, 1998.

46-2-9596

MAH