

Can Legal Action Affect My Retirement Account?

Washington State Department of Retirement Systems



Certain legal actions can require the Department of Retirement Systems (DRS) to pay a portion of your retirement account to another party. This publication describes the legal actions that could affect your retirement account, including dissolution orders, child-support obligations and federal court orders.



What legal actions can affect my retirement account?

Dissolution orders: A dissolution order is a court order entered at the time of divorce, legal separation, or annulment of marriage or registered domestic partnership that makes a provision that divides property or requires spousal maintenance. *RCW 41.50.500* and *41.50.670* through *41.50.720* govern

For more definitions, see page 4.

the division of retirement benefits as marital property.

Property division: DRS could be required to pay a portion of your retirement account to satisfy a property division obligation. The order could do one of the following:

- Award an interest in your account to your ex-spouse
- Split your account into two accounts — one for you and one for your ex-spouse — if you are a vested member in a retirement system

DRS will comply with an order that meets all statutory requirements. For additional information, see *How Can a Property Division Affect My Retirement Account?* and *WAC 415-02-500* through *415-02-550*.

Questions answered inside this publication

When will my account be affected?

Is there a fee for processing a payment?

Can a restraining order stop payments?

Can other orders affect my account?

Does DRS report payments to the IRS?

Could I be required to name my ex-spouse as my survivor when I retire?

Will DRS release my account information?

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Spousal maintenance: DRS could be required to pay a portion of your retirement account to satisfy a spousal maintenance obligation if one of the following situations apply:

- DRS receives a Mandatory Benefit Assignment Order (MBAO) requiring DRS to deliver a portion of your retirement benefit directly to the clerk of the court that issued the MBAO to satisfy an overdue spousal maintenance obligation. Your ex-spouse can seek an MBAO only if you are more than 15 days late in spousal maintenance and the amount is \$100 or more. The MBAO must contain the exact language used in *RCW 41.50.590*. Payment to an ex-spouse cannot exceed the limits in *RCW 41.50.580*.
- The dissolution order requires DRS to pay a portion of your accumulated contributions to your ex-spouse upon withdrawal. The dissolution order must contain the exact language used in *RCW 41.50.550(3)*.

Child-support obligations: DRS will pay a portion of your retirement benefit or withdrawal of contributions to satisfy a child-support obligation if one of the following situations apply:

- The Department of Social and Health Services (DSHS) issues an order to withhold and deliver under *RCW 74.20A*.
- The DSHS Division of Child Support serves a notice of payroll deduction under *RCW Chapter 26.23*.
- A superior court issues a wage assignment order for child support under *RCW Chapter 26.18*.

Federal court orders: DRS will pay a portion of your retirement benefit or contribution withdrawal if required by a federally authorized administrative or court order.

Such orders can include Internal Revenue Service (IRS) levies and bankruptcy court orders.



When will my account be affected?

If a property division order requires that your account be split into two separate accounts, the accounts will be split after the order has been filed with and approved by DRS.

For all other legal actions described in this publication, payment can be made to another party only when one of the following situations apply:

- You receive a benefit distribution, either as a monthly allowance or a lump sum.
- You die.



Is there a fee for processing a payment?

When processing a payment resulting from legal action, DRS deducts a one-time fee as listed below.

Type of order	Fee
Property division order	\$75*
Mandatory benefit assignment order	\$25
Child-support obligation	\$10

* This fee is divided equally between you and your ex-spouse and deducted from each person's first payment.



Can a restraining order stop payments?

A party to a dissolution proceeding may seek a restraining order to stop you from withdrawing contributions or receiving a monthly benefit payment.

DRS must comply with a restraining order entered by a court and served on DRS. For more information, see *RCW 41.50.720*.

Use the *Beneficiary Designation* form to update your beneficiary with DRS. If you have additional questions about how a legal action might affect you, contact DRS (see page 4).



Can other orders affect my account?

DRS cannot comply with a provision in an order that *RCW 41.50* doesn't specifically authorize.

For example, DRS cannot honor an order that is based solely on a Qualified Domestic Relations Order (QDRO) or any provision that is based solely on the Employee Retirement Income Security Act (ERISA), the Retirement Equity Act (REA) or the existence of a meretricious relationship (that is, a relationship in which a couple's partners live together but are not married).



Does DRS report payments to the IRS?

DRS is required to report all retirement payments made during each calendar year (except Plan 1 duty disability and some death benefit payments) to the IRS.

Payments made to your ex-spouse or former registered domestic partner as ordered in a property division are reported to the IRS as paid to your ex-spouse or ex-partner. All other payments are reported to the IRS as paid to you.



Could I be required to name my ex-spouse as my survivor when I retire?

A dissolution order might require your ex-spouse be named as your survivor if the order contains language from *RCW 41.50.790*.



Will DRS release my account information?

You can request information about your account. See the contact information for DRS on page 4.

Your request must include:

- Your Social Security number
- Your retirement system
- Your mailing address
- Your phone number
- Your signature
- Your marriage date and separation date, if requesting information for a property division order
- The date you need the information by, if applicable

Another person can request information about your account by:

- Filing a written request, including a signed release from you, authorizing DRS to release the information
- Serving a subpoena *duces tecum* on DRS; compelling DRS to supply specific evidence in its possession
- Filing a public disclosure request for specific information under *WAC 415-06*

In response to a public disclosure request, DRS will send you a certified letter to notify you that the request has been made.

If you want to stop the release of information, you must file a court restraining order with DRS within 10 business days from receipt of the certified letter.

Definitions

Awarding an interest: A court has awarded another party the right to receive payment of a portion of your monthly benefit or withdrawal of contributions.

Dissolution order: Any judgment, decree or order of spousal maintenance, property division or court-approved property settlement as part of a decree of divorce, dissolution, invalidity or legal separation.

Ex-spouse or ex-partner: A former spouse or registered domestic partner who is a party to a dissolution order.

RCW: Revised Code of Washington.

Splitting an account: A court has awarded your ex-spouse or ex-partner the right to a separate retirement account that is created by dividing your retirement account.

Vested member: A retirement plan member who has earned enough years of service credit to be eligible for a service retirement when he or she meets the applicable age requirements.

WAC: Washington Administrative Code.

Contact DRS

Call  Olympia 360.664.7000 Toll free 800.547.6657 TTY 711 DCP 888.327.5596	Write  Department of Retirement Systems PO Box 48380 Olympia, WA 98504-8380	Email  recep@drs.wa.gov It might be possible for other people to read messages sent over the Internet. If you contact us by email, please include only the last four digits of your Social Security number.
Visit  6835 Capitol Blvd. Tumwater, WA 98501 <i>Directions are available on the DRS website.</i>	Hours  Monday - Friday 8 am to 5 pm PST	Website  www.drs.wa.gov You can also send us email through the DRS website. Visit the <i>Contact Us</i> page.

Privacy of your information

We are committed to protecting the privacy of your account information, including your Social Security number, which we use to track your account and submit required reports to the IRS. We will not disclose your information to anyone unless we are required to do so by law. If you have insurance coverage through PEBB, we might share your information with PEBB to better serve you.

Summary

This document is a summary. It is not a complete description of how legal actions can affect a retirement account. State retirement laws govern your benefit. If a conflict exists between the information in this document and what is contained in current law, the law governs.