

Divorce

and Your MPERS Benefits

Vesting Requirements

In order to divide your monthly benefit, you must be vested on the date of your divorce. In other words, you must be eligible to ultimately receive a benefit from MPERS without regard to future service. You are vested after accruing five years of credited service.

If you are not vested on the date of divorce, your retirement benefit cannot be divided. If you are not vested, you are not entitled to a benefit; therefore, there is nothing to divide.

Vesting Requirements

Closed Plan & Year 2000 Plan	5 years
2011 Tier	5 years*

**10 years if employment was terminated prior to January 1, 2018*

If the service accrued during the marriage was under the Closed Plan, the ex-spouse payment will be calculated according to the plan the member is in on the date of dissolution, regardless of the plan elected at retirement.

Explanation of the DBO Provision

Sections 104.312 and 104.1051 of the Missouri Revised Statutes (RSMo), permit the division of MPERS' retirement benefits in the event of a divorce. This law allows MPERS to pay a portion of your pension benefit directly to your ex-spouse at the same time you begin receiving your retirement

benefits from MPERS. If you are already retired, the benefits to your ex-spouse will begin the first of the month following receipt of an approved **Division of Benefits Order (DBO)**.

Before MPERS can divide your benefit, a court of competent jurisdiction must issue a DBO. According to the law, the court may award your ex-spouse up to 50% of the MPERS benefit accrued during all or part of your marriage.

An Alternative to the DBO

There are two important details to remember when considering whether or not to use a DBO.

1. No payment will be issued to your ex-spouse until you begin receiving retirement benefits from MPERS.
2. MPERS may only divide your benefit upon receipt of a court-certified and MPERS-approved DBO.

However, as an alternative to the DBO, your attorney may advise you to divide the present value of your retirement benefit at the time of divorce. If a present value calculation is required, please contact a professional who specializes in this service. MPERS cannot provide a present value calculation.

There may be alternative methods available to you as well. Please consult an attorney to decide which method is best.

If you are vested, your retirement benefit from MPERS may be considered marital property.

This brochure contains summarized information from sections 104.312 and 104.1051 of the Missouri Revised Statutes (RSMo). The contents of this brochure are not legal advice.

This information does not amend or overrule any applicable statutes or administrative rules. In the event of conflict, the more applicable law will prevail.

Please consult your attorney regarding your legal rights during a divorce.



How to Obtain Benefit Information

MPERS requires a *Request for Division of Benefits Order (DBO) Estimate* form or subpoena to release your benefit information to another party. Your ex-spouse can use the release form in lieu of requesting the court to issue a subpoena to MPERS. A *Request for Division of Benefits Order (DBO) Estimate* form is available on our website (www.mpers.org) or you may contact MPERS' office.

Generally speaking, the DBO estimate will include the following information:

- Amount of creditable service accrued
- Applicable benefit formula
- Accrued monthly retirement benefit attributable to the marriage

If you or your attorney requests the benefit information, we will send it only to you. If your spouse or your spouse's attorney requests the benefit information, we will send you a copy of the information that we release to your spouse.

How to Calculate the Ex-Spouse Payment

With an approved DBO, your ex-spouse may receive up to 50% of the MPERS benefit accrued during all or part of your marriage. The benefit for service accrued before marriage, as well as that accrued after the date specified on the DBO, cannot be divided. The ex-spouse's benefit will be based upon the formula of the plan in which the member belongs on the date of dissolution.

In the event of a divorce, service purchased or transferred during the marriage will be included in calculating the ex-spouse's benefit.

The ex-spouse's payment amount will be adjusted proportionately if the member

- elects early retirement or
- elected a joint and survivor option at retirement and the ex-spouse was named as beneficiary.

The reduction will be applied to the member's and ex-spouse's benefits.

When Ex-Spouse Payments Begin

The ex-spouse's payment will begin the later of

- the month following the date the DBO is issued (if already retired) or
- when MPERS receives and it is permissible to implement the DBO (ex-spouse payments cannot be paid until you begin receiving retirement benefits from MPERS).

Benefit payments governed by a DBO cannot be paid retroactively.

If You Divorce Before Retirement

In accordance with the DBO provisions, ex-spouse payments will commence when you begin receiving retirement benefits from MPERS. Upon your death, or the death of your ex-spouse, the DBO will automatically terminate and payments to the ex-spouse will cease.

Example of a Closed Plan Ex-Spouse Payment Calculation

Service Accrued During Marriage Calculation:

Date of dissolution	2008 - 11 - 30
Date of marriage	- 1999 - 10 - 16
9 years 1 month 14 days	9 - 01 - 14

Benefit Calculation:

Average compensation	\$2,600.00
Multiplier	x .016
Years and months of service	x 9.08333
Benefit eligible for division	= \$377.87
Percentage specified in DBO	x .50
Ex-spouse payment	= \$188.94



If You Divorce After Retirement

Payments to your ex-spouse will begin the first of the month following receipt of a valid DBO. MPERS will only divide retirement benefit payments paid after receipt of the DBO. Upon the death of either party, the DBO will automatically terminate and payments to the ex-spouse will cease. If your ex-spouse predeceases you, your benefit will increase by the amount otherwise payable to your ex-spouse on the first of the month following your ex-spouse's death.

Survivor benefits are paid in accordance to the applicable statutes. For example, if you elect(ed) a joint & survivor benefit payment option at retirement, survivor benefits will be paid to the spouse named, **regardless of your marital status**. However, effective January 1, 2021, if you elected a joint and survivor benefit payment option, your benefit can revert (pop up) to the higher life income annuity amount upon submitting a completed *Divorce - Survivor Option Reversion* form and a copy of the divorce decree to MPERS. The divorce decree must be approved by MPERS' counsel and must provide sole ownership by the member to all rights in the annuity and must further provide that the ex-spouse shall not be entitled to any survivor benefits.

Divorce and Your Survivor Benefit

Upon your death, survivor benefits will be paid to the eligible beneficiary according to the applicable provisions of the Missouri Revised Statutes (regardless of your marital status).

In the event of divorce, consider updating the beneficiary designation(s) for the following:

- \$5,000 death benefit, final payment, employee contributions (if applicable)
- Life insurance through MoDOT/Patrol
- Mo Deferred Compensation account

General Information About MPERS

MPERS is a defined benefit (DB) plan operating as a tax qualified plan under Section 401(a) of the Internal Revenue Code. In a DB plan, those who vest and meet certain age and service requirements are guaranteed a retirement benefit. This benefit is generally determined by a formula, which takes into account your compensation and your years and months of service.

If you are a member of MPERS' Closed Plan and Year 2000 Plan, you do **not** contribute to your retirement benefit. Retirement benefits are financed solely by employer contributions

How to Submit a DBO

To assist you in providing an **acceptable** DBO, we recommend you follow these steps:

1. Discuss the divorce proceedings with an attorney. Ask about your rights and options regarding marital property.
2. Request a DBO packet and benefit estimate from MPERS. To obtain this information, submit a *Request for Division of Benefits Order (DBO) Estimate* form or issue a subpoena to MPERS. **The Request for Division of Benefits Order (DBO) Estimate form and the sample DBO are available on MPERS' website.**
3. Have your attorney prepare a DBO according to the sample DBO provided in the packet (or available on our website). A substantively altered DBO will **not** be accepted.
4. Have the DBO signed by the appropriate parties, including the judge.
5. Obtain a **certified copy** of the DBO from the circuit clerk.
6. Submit the **certified copy** to MPERS for processing (a photocopy or an electronic copy is acceptable). MPERS will not process a DBO until a certified copy is received at MPERS' office.



and investment earnings associated with those contributions. Because employer contributions fund benefits for all members, you do **not** have an individual account.

If you are a member of MPERS' contributory 2011 Tier, you do have an individual account. There are **no** provisions that allow your ex-spouse to receive any portion of your contributions, unless your ex-spouse is your designated beneficiary. You may change your beneficiary designation at any time by completing and submitting a *Designation of Beneficiary for Employee Contributions* form.

Acting as an administrative agent, MPERS oversees the following three retirement plans:

- Closed Plan
- Year 2000 Plan
- 2011 Tier (contributory tier of Year 2000 Plan)

Summary of DBO Provisions

- MPERS will not automatically divide your retirement benefit in the event of divorce. MPERS may only divide your benefit upon receipt of a court-certified and MPERS-approved DBO.
- The amount to be divided is negotiable at the time of divorce. It can be any amount up to 50% of your MPERS benefit accrued during all or part of your marriage.
- There may be alternatives available to divide the value of your retirement benefit. Please seek legal advice from an attorney about your rights and options.
- If you marry and divorce more than once, the court can authorize more than one MPERS DBO. Under each DBO, only the benefit accrued during the relevant marriage can be divided.
- No payment will be issued to your ex-spouse until you begin receiving your benefits from MPERS.

- In order to have your benefit divided, you must be vested on the date of dissolution (as specified on the DBO).
- A certified DBO can be submitted to MPERS after your divorce. The DBO is **not** automatically part of the divorce and must be initiated by the parties to the divorce.
- The DBO will automatically terminate upon the death of either party and benefits payable to the ex-spouse will cease.
- Your ex-spouse will not be eligible to receive any formula increases, the temporary benefit, any portion of your BackDROP payment, or your employee contributions (if applicable).
- Ex-spouse payments are eligible for cost-of-living adjustments (COLAs) based on the plan in which you receive a retirement benefit (if DBO occurred on or after September 1, 2001).
- The ex-spouse payment will be adjusted proportionately if you
 - elect(ed) early retirement or
 - elect(ed) a joint and survivor benefit payment option at retirement and you named your ex-spouse as beneficiary.
- An MPERS retiree cannot change (even after divorce) the benefit payment option after MPERS pays the first benefit payment.*
- It is important that you and your ex-spouse keep MPERS updated on any address changes. We will contact both of you if there is a change in benefit amount or status of the payments.
- Members of the 2011 Tier **cannot** request a refund of employee contributions if there is a certified DBO on file at MPERS.

*See the *Designation of New Spouse for Survivor Options and Pop-up Provision - Death of Spouse* sections of the handbook for exceptions to this rule.

