



The Board of Pensions
of the Presbyterian Church (U.S.A.)

Benefits Plan and Divorce

**The Benefits Plan of the
Presbyterian Church
(U.S.A.) and Divorce**

**A Guide for Members, Spouses,
and their Attorneys**

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I. Introduction

A. About This Booklet

The Benefits Plan of the Presbyterian Church (U.S.A.) (the “Benefits Plan”) is made up of several individual plans. This booklet describes how each individual plan’s benefits are affected by the divorce of a member of that plan. The official Benefits Plan document, which includes each individual plan document, is available upon request by calling the Board of Pensions of the Presbyterian Church (U.S.A.) (the “Board”) at 800-773-7752 (800-PRESPLAN). It also may be downloaded from **Pensions.org**.

This booklet is intended to guide members, their spouses, and attorneys in the event of divorce. It is a summary of the rights and benefits of the parties. In the event of an inconsistency between this booklet and the official plan document, the terms of the plan document shall control.

Section II of this booklet provides information about the following plans of the Benefits Plan:

- Pension Plan
- Retirement Savings Plan
- Death and Disability Plan
- Medical Plan
- Optional Dental Program
- Supplemental Death Benefit Program

A chart at the end of Section II summarizes the information in this section.

Section III of this publication includes resources for drafting a domestic relations order (“DRO”) that is used to assign benefits under the Pension Plan or the Retirement Savings Plan. *The Board requests submission of draft orders for Board review before submitting the order for court approval.* The sample orders are available for download at **Pensions.org**.

You should provide this booklet to your attorney at the beginning of your divorce proceedings so that he or she can learn about how the plans work and the DRO process with respect to the plans.

The Benefits Plan is a “church plan” (as defined by section 414(e) of the Internal Revenue Code and Section 3(33) of the Employee Retirement Income Security Act of 1974 (ERISA)). As such, it is exempt from all or most of the legal requirements imposed by Title I of ERISA, the COBRA continuation of medical coverage requirements, the Qualified Domestic Relations Order (QDRO) laws, and many of the requirements that govern corporate benefits plans.

B. General Principles

- **Confidentiality.** Member information is confidential information. In general, no information about a member's benefits will be released to anyone other than the member (including the member's attorney) without the member's written consent.

The Board will provide a member's spouse with pension credit accrual and pension quote information before the entry of a DRO if the spouse or his/her attorney requests the information in writing and notes that the information is required to negotiate or prepare an order in a divorce proceeding. General information about the plan's benefits may be given without the member's consent.

- **Impartiality.** The Board does not take sides in divorce matters. The Board remains neutral in matters of property settlement during divorce. The Board cannot and will not provide legal advice to individual plan members or their spouses. The division of a member's pension is a matter of negotiation between the member and the spouse. The Board cannot and will not provide information on what should be done or what is fair. The Board can assist in giving members and their spouses or ex-spouses the information they need to conclude their divorce within the bounds of this impartiality policy and the confidentiality policy described above.

C. Key Responsibilities of the Plan Member and/or Spouse

- Promptly report your separation, divorce, or remarriage to the Board of Pensions at 800-773-7752 (800-PRESPLAN).
- Tell the Board if the status of any dependent children changes.
- Complete new beneficiary designation form(s) after the divorce is finalized.
- Notify the Board of new addresses for member, ex-spouse, and/or children (if applicable).

D. Board Communications to Member and Former Spouse

- The Board notifies the member when it receives a divorce decree.
- The former spouse receives information about continuing medical coverage if the spouse was covered by the Medical Plan at the time of divorce and if the Board is notified of the divorce within 60 days of the date medical coverage would otherwise end. The former spouse will also receive a Certificate of Creditable Coverage, which is a document that verifies the periods of coverage for medical and dental coverage (if enrolled) under the Medical Plan.

- The Board provides pension credit accrual and pension quote information to a member's spouse before the entry of a DRO if the spouse or his/her attorney requests it in writing and notes that the information is required to negotiate or prepare an order in a divorce proceeding.
- The Board notifies both the member and former spouse if a DRO is approved by the Board to assign a portion of the member's retirement benefits to the former spouse.
- The Board sends individual communications regarding pension quotes, medical claims status, and sample DROs only to the requesting party, unless the party requesting the information instructs the Board otherwise.

Please note: Benefit assignments are noted in the member's records, but the pension credits under the Pension Plan are not actually divided until the member and/or the alternate payee commences benefits. As a result, the member's annual benefit statements continue to reflect the total pension credits, including those assigned to the former spouse through a DRO. A former spouse may request a statement of the pension credits assigned through the DRO, but the Board does not currently send annual benefit statements to alternate payees.

Please note that this booklet is provided for informational purposes only and should not be viewed as investment, legal, tax, or other advice. In the event of a conflict between the information contained in this booklet and the official plan document, the plan document will govern. The Board of Pensions retains the right to amend, terminate, or modify the terms of any benefit plans described in this document at any time, without notice, and for any reason.

II. Plan-By-Plan Review

A. Retirement Plans

1. Pension Plan

What Is the Pension Plan Benefit?

The Pension Plan provides a “defined benefit” retirement pension to its plan members. The amount of an individual member’s retirement pension is based on the total number of accrued pension credits. A member earns pension credits each year based on a percentage of the member’s compensation reported to the Board. There are two benefits available under the Pension Plan: a retirement pension benefit and a survivor’s pension benefit.

The *retirement pension benefit* is payable in full if the plan member retires at age 65, the plan’s “normal retirement age.” An actuarially adjusted amount is available if the member chooses to retire early (between age 55 and age 65) or to defer retirement beyond age 65. The retirement pension is paid monthly beginning when the plan member retires and *ending when the plan member dies*, except in the case of small pension settlements, which are paid in a lump sum as explained below.

The *survivor’s pension benefit* is payable to a surviving spouse (if married for at least one year at the date of death of the member) and/or alternate payee (if provided for in a DRO) and/or other eligible dependent as permitted by the plan. The normal survivor’s pension is 50% of the pension credits the plan member accrued at the time of death, although other survivor options are available. The normal survivor’s pension is paid to a surviving eligible spouse at the death of the member for the rest of the surviving spouse’s life. The payment of a normal survivor’s pension through a DRO to a former spouse does not reduce the member’s retirement pension benefit, although it will reduce the amount otherwise payable to a current spouse at the member’s death.

What Are Experience Apportionments?

“Experience apportionments” are a unique feature of the Pension Plan. When the pension fund’s investment and actuarial experience is favorable, the Board may grant permanent increases in pension credits or benefits. The apportionment increases are granted to active, inactive vested, disabled, and retired plan members. If a member’s pension benefits are being divided as the result of a divorce, *the DRO must specify* how the experience apportionments will be divided.

How Is the Pension Plan Benefit Affected by Divorce?

Pension benefits that accrued during the marriage may be considered to be marital assets and may be subject to assignment or division as part of a property settlement agreement.

The laws regarding the division of marital property vary from state to state, as do the individual circumstances of plan members.

For the Board to honor a division of the pension benefits, the division must be made part of a DRO. The Board only accepts shared payment assignments. It will not accept an order that attempts to transfer credits to an account of the alternate payee. (See Section III for a sample DRO).

The DRO may provide that retirement pension payments to the former spouse may begin any time after the member reaches the earliest retirement age allowed under the plan. The earliest retirement age is currently age 55. A former spouse *must* begin payments no later than the member’s retirement date.

Retirement pension benefits to the former spouse terminate when the plan member dies, unless all or a share of the survivor’s pension benefit is also assigned.

A former spouse is not automatically entitled to any share of the survivor’s pension benefit, regardless of the length of the marriage or if the marriage ended after the member retired. *A DRO must assign survivor’s pension benefits in order for a former spouse to receive any payments after the member’s death.*

A previously elected survivor option is *automatically cancelled* upon divorce. Unless survivor’s pension benefits are specifically assigned in the DRO, the former spouse will not receive any benefits following the member’s death, even if the member has already started receiving retirement pension benefits.

A DRO entered after retirement can: (1) reinstate the former spouse as the sole beneficiary of the previously elected survivor option or (2) name the former spouse as the sole or partial beneficiary of the normal survivor’s pension. The DRO may not name a future spouse as the beneficiary of an elected survivor option (although a future spouse can qualify as a surviving spouse for purposes of the normal survivor’s pension if married to the member for at least one year as of the date of the member’s death).

A former spouse may not name a beneficiary for his or her benefits. Benefit payments cease upon the death of the former spouse. The benefit paid to the former spouse reverts to the member upon the death of the former spouse.

The Pension Plan does not allow a DRO to award a lump sum settlement or cashout of Pension Plan benefits.

What Can the Board Do To Help?

The Board will provide, at the plan member’s request, a statement of the retirement pension and/or survivor’s pension credits that would be payable based on the pension credits that accrued during a specified period or an estimate of the cash value of the member’s pension.

The Board has prepared a **sample DRO** (found in Section III and available for download at Pensions.org) to smooth the approval process. The Board requests that the proposed DRO be submitted to the Board for review *before* filing it for approval by the court.

Once approved by the court, a copy of the DRO and the divorce decree must be submitted to the Board for its final approval before the former spouse's rights are recognized by the Board.

Lump Sum Settlements and Cashouts

A former spouse may receive a lump sum payment from the Pension Plan only in two circumstances:

1. If, at the time benefits begin to be paid to either the member or former spouse, the benefit is less than \$50.00 a month, the Board will offer the member and/or former spouse the option to elect a lump sum payment.
2. When a DRO has assigned pension benefits to a former spouse of a terminated vested member and those benefits have an actuarial present value of less than \$1,000, the Board will automatically make a lump sum payment to the former spouse. A former spouse of a terminated vested member may elect a lump sum payment of an assignment with an actuarial present value of less than \$5,000.

2. Optional Retirement Savings Plan

What Is the Retirement Savings Plan?

The Retirement Savings Plan (the "RSP") is a defined contribution 403(b)(9) plan. Participation in the RSP is completely voluntary. Thus, not every Presbyterian Church (U.S.A.) employee will have an RSP account.

The amount of the participant's account balance is based on contributions made to the RSP by the participant, plus gains and losses. A participant's employer may also contribute. The RSP account may be considered a marital asset and may be subject to division by court order. The RSP is administered by Fidelity Investments. You may call them at 800-343-0860. You may also visit Pensions.org for information about the RSP.

Note: When contacting Fidelity, refer to the RSP by its plan number, 57887.

How Is the Retirement Savings Plan Affected by Divorce?

Unlike the Pension Plan, a lump sum distribution may be made to the former spouse when the Board receives an acceptable DRO, so the former spouse may receive a distribution before the plan member reaches retirement age. The former spouse also has the option to have the funds remain in the RSP in a separate account in his or her name.

A DRO for the RSP should include instructions for allocating earnings and losses through the date of division.

A participant may name any person as the beneficiary of his or her RSP account, including a former spouse or children who will no longer be considered eligible dependents after the divorce. If the participant designated his or her spouse as the beneficiary before the divorce, certain state laws will automatically void this designation upon divorce.

How Can the Board Help?

Fidelity will provide, at the plan participant's request, a statement of the participant's account balance as of a specified date.

The Board has prepared a sample DRO (found in Section III and available for download at Pensions.org) to smooth the approval process. The Board requests that the proposed DRO be submitted to the Board for review *before* it is filed for approval by the court. Until the DRO is approved, participants and their spouses should direct all questions to the Board rather than Fidelity.

Once approved by the court, a copy of the DRO and the divorce decree must be submitted to the Board for its final approval before the former spouse's rights are finalized under the DRO.

B. Death and Disability Plan

1. Disability Benefits

What Is the Disability Benefit?

The Death and Disability Plan provides eligible members with a replacement income disability benefit of 60% of the last effective salary of the member (up to a fixed dollar limit).

How Is the Disability Benefit Affected by Divorce?

A DRO can require the assignment of a portion of the disability benefit to a former spouse to provide for child support or alimony payments. If a portion of the disability benefit is being assigned to a former spouse, the DRO must assign a specific percentage or dollar amount of the disability benefit to be paid.

What Can the Board Do To Help?

The sample orders provided in Section III do not reflect a division of the disability benefit. The Board's legal department can provide sample language for such a division, upon request. The Board should review any DRO awarding disability benefits *before* it is filed with the court.

2. Death Benefits

The Death and Disability Plan provides two separate death benefits:

1. The Salary Continuation Benefit pays a year's salary (subject to a minimum and a maximum) to the designated beneficiaries of an active or disabled plan member. A reduced benefit is payable at the death of a retired plan member.

2. The Lump Sum Death Benefit pays a multiple of the member's salary (subject to a minimum and a maximum) based on age.

How Are the Death Benefits Affected by Divorce?

Salary Continuation Benefit. If the plan member previously designated his or her spouse as the beneficiary, the divorce automatically nullifies the designation in many states. The plan member may name any person, institution, or trust as the beneficiary of the Salary Continuation Benefit, including a former spouse or children who are no longer "eligible dependents" as defined by the plan, by completing the Board's beneficiary designation form. The divorced plan member should complete a new beneficiary designation form after the divorce is final. If the former spouse will remain the beneficiary of the Salary Continuation Benefit, the form should be dated after the divorce is final and should clearly state "former husband" or "former wife" as the relationship to the member. The Board will not accept or enforce an irrevocable beneficiary designation in a court order or otherwise. The Board will confirm whether the person named in a court order is the current designated beneficiary, but beneficiary information is confidential and the identity of the designated beneficiary, if not the person named in the court order, will not be released to anyone other than the member.

Lump Sum Death Benefit. If the member is legally married at the time of death, this benefit will be paid to the member's spouse. If the member dies without a surviving spouse, the benefit is paid to the member's dependents or estate. The Lump Sum Death Benefit may not be paid to a former spouse.

What Can the Board Do To Help?

The Board can confirm existing beneficiary designations at the plan member's request. The Board sends new beneficiary designation forms to members when notified of a member's divorce.

C. Medical Plan

What Is the Medical Plan Benefit?

Medical coverage is provided to active plan members, their spouses, and eligible dependents through the Medical Plan. For eligible retired members over age 65, the Board offers a self-funded Medicare Supplement Plan.

How Is the Medical Plan Benefit Affected by Divorce?

When a member divorces, a former spouse in the Traditional Program is entitled to 90 days of free coverage, and then has the option of subscribing for medical coverage through the Medical Continuation Program until age 65, when he or she will be eligible to subscribe for the Medicare Supplement Plan. This election must be made within 60 days of the end of the 90-day free coverage period.

No free coverage is available to former spouses or children in the Affiliated Benefits Program. However, the former spouse has the option of subscribing for the Medical Continuation Program until age 65, when he or she will be eligible to subscribe for the Medicare Supplement Plan. This election must be made within 60 days of the date of divorce.

No free coverage is available to former spouses or children if the member is retired when divorced.

Since divorce is a "life-change event," the plan member may elect to add or drop dependents within 31 days of the date of the divorce. A member's children may remain on the member's medical coverage for as long as they continue to meet the eligibility requirements of the Medical Plan. If the member's children are unmarried, full-time students and are enrolled in the Traditional Program, they are eligible to receive up to 90 days of free medical coverage at graduation. They then have 60 days from the end of the free coverage period (for the Traditional Program) or the date of divorce (for the Affiliated Benefits Program) to subscribe for the Medical Continuation Program until age 21 or until age 25 if they are unmarried, full-time students.

How Can the Board Help?

The Board sends information about continuing medical coverage, including the cost, to a member's spouse (or former spouse) when the Board is notified of the member's divorce. The Board will comply with a court order directing that a member's children should remain covered by the Medical Plan for as long as the children are eligible.

D. Optional Dental Program

What Is the Optional Dental Program Benefit?

Active Benefits Plan members may elect coverage under the Optional Dental Program for themselves and their families. The member or the employing organization pays the cost of the coverage.

How Is the Optional Dental Program Benefit Affected by Divorce?

No continuation of Dental Program coverage is available to a former spouse after divorce. Children may remain on the member's dental coverage after the divorce for as long as they continue to meet the eligibility requirements under the Optional Dental Program.

Since divorce is a "life-change event," a member may also elect coverage or add or drop dependents within 31 days of the date of the divorce. However, if dependents are added, their coverage is limited for the first 12 months to preventive and certain basic services.

How Can the Board Help?

The former spouse or other dependent losing coverage receives a Certificate of Creditable Coverage from the Board at the time his or her Optional Dental Program coverage ends.

E. Supplemental Death Benefits

What Is the Supplemental Death Benefit?

An active, unemployed, retired (up to age 70), or disabled Benefits Plan member may be enrolled in the Supplemental Death Benefits Program. Enrollment in this program is optional. The benefit is a single lump sum payment to the member's designated beneficiary or beneficiaries. A member may elect limited coverage for a spouse or children, with the benefit payable to the member.

How Is the Supplemental Death Benefit Affected by Divorce?

Divorce has no effect on the Supplemental Death Benefit coverage of the member, except with regard to the designated beneficiaries. As mentioned previously, divorce nullifies beneficiary designations in some states. Some states also have laws restricting changes in beneficiaries while divorce proceedings are pending. The Board strongly recommends that the member file a new beneficiary designation form with the Board after the divorce. If the former spouse is to remain the beneficiary of the Supplemental Death Benefit, the form should be dated after the divorce is final and should clearly state "former husband" or "former wife" as the relationship to the member. The Board will not accept or enforce an irrevocable beneficiary designation in a court order or otherwise. The Board will confirm whether the person named in a court order is the current designated beneficiary, but beneficiary information is confidential and the identity of the designated beneficiary, if not the person named in the court order, will not be released to anyone other than the member.

Any spousal coverage terminates on divorce. A child's coverage terminates when the child is no longer an eligible dependent.

Summary of Effect of Divorce on Benefits

| | Pension Plan Retirement Pension (For Life of Member) | Pension Plan Survivor's Pension (After Death of Member) | Disability Benefit | Salary Continuation Benefit |
|----------------------------------|---|---|--|--|
| Member Active/Disabled | No effect on pension credits unless division is ordered by a court. | Will not be paid to former spouse unless assigned by court order. | No effect unless a portion is assigned to former spouse by court order. | Previous beneficiary designation to former spouse may be nullified by divorce. New forms should be completed. |
| Inactive (vested) | Same as active/disabled. | Same as active/disabled. | This benefit is not available to inactive members. | Effective 1/1/07, this benefit is available to some inactive members. Same as active/disabled. |
| Retired | Same as active/disabled. | Same as active/disabled. | This benefit is not available to retired members. | Effective 1/1/07, this benefit is not available to all retirees. Same as active/disabled. |
| Former Spouse | Can receive a portion of member's pension if assigned by court order. | Can receive all or a portion of survivor's benefit if assigned by court order. | Can receive a percentage of disability benefit if assigned by court order. | Can receive all or a portion of this benefit if the member designates as beneficiary after the date of divorce. |
| Children | No effect. | No effect unless member dies with no surviving spouse, then children must be "eligible dependents" to receive payments. | No effect. | Can be named a beneficiary. |

| Lump Sum Death Benefit* | Medical/Medicare Supplemental | Retirement Savings Plan | Optional Dental Program | Supplemental Death |
|---|--|---|---|---|
| This benefit will not be paid to a former spouse.* | Can elect to change coverage option (to or from HMO) within 60 days of divorce. | No effect unless a portion is assigned to former spouse by court order. | Can elect to add or delete coverage within 31 days of divorce. | Previous beneficiary designations to former spouse may be nullified by divorce. New forms should be completed. |
| This benefit is not available to inactive members. | Not applicable unless member has continuation coverage. | Same as active/disabled. | This benefit is not available to inactive members. | This benefit is not available to inactive members. |
| This benefit is not available to retired members. | Former spouse's subscription cost will no longer be deducted from pension. | Same as active/disabled. | This benefit is not available to retired members. | This benefit is only available to retired members who subscribed prior to retirement. |
| Former spouse cannot receive any portion of this benefit.* | <p>Traditional Program: Free coverage for 90 days, then continuation coverage is available.</p> <p>Affiliated Benefits Program: No free continuation coverage is available. Former spouse has option to subscribe.</p> | Can receive a portion of account if assigned by court order and can be named beneficiary if designated after divorce. | No continuation coverage is available after divorce. | Former spouse can be named beneficiary if designated by the member after date of divorce. |
| No effect unless member dies with no surviving spouse, then children must be "eligible dependents." * | If an "eligible dependent" no effect, otherwise free coverage and continuation coverage available as with former spouse. | Can be named beneficiary regardless of dependent status. | Children can remain on member's coverage if they meet eligibility requirements. | Children can be named beneficiaries regardless of dependency status. |

* Lump sum death benefit will be paid to member's estate if there are no other eligible survivors.

III. DRO Resources

A. DRO Checklist

Unless the answer to all these questions is “yes,” the Board of Pensions will not accept the order.

1. Is the agreement to share the benefits in the form of a domestic relations order?
2. Does the order contain the
 - name
 - social security number
 - date of birth, and
 - last known mailing address of the Benefits Plan member?
3. Does the order contain the
 - name
 - social security number
 - date of birth, and
 - last known mailing address of each divorced spouse or dependent (alternate payee) covered by the order?
 - Alternate payee is defined as any spouse, former spouse, child, or other dependent.
4. Does the order contain the official name of the Plans? They are:
 - The Pension Plan of the Benefits Plan of the Presbyterian Church (U.S.A.).
 - The Retirement Savings Plan of the Presbyterian Church (U.S.A.).
5. Does the order contain the proper name and address of the plan administrator?
It is:
The Board of Pensions of the Presbyterian Church (U.S.A.),
2000 Market Street, Philadelphia, PA 19103-3298.
6. Is the order signed by both parties and a judge?
7. Was the order filed by a court of proper jurisdiction?
8. Does the order state the date of the parties’ marriage and the date of their separation or divorce?
9. Does the order create or recognize the rights of one or more alternate payees (other than the member) to receive all or part of the member’s benefits?
10. The assignable benefits under the:
 - Pension Plan*: all or a portion of the retirement pension, survivor’s pension, and disability pension benefits.
 - Retirement Savings Plan*: all or a portion of the member’s account balance.

For the Pension Plan:

 - Does the order specify a percentage of the member’s monthly *retirement pension and/or survivor’s pension* benefit to be paid by the Plan to each alternate payee or the manner in which such percentage is to be determined?
 - Does the order specify how experience apportionments are to be divided?
 - Does the order specify whether the alternate payee is assigned a survivor’s pension benefit?

For the Retirement Savings Plan:

 - Does the order specify the dollar amount or percentage of the member’s account balance to be paid by the Plan to each alternate payee or the manner in which such dollar amount or percentage is to be determined?
 - Does the order specify the allocation of earnings and losses through the date of division?
11. Does the order provide benefits at a time or in a form that is available under the plan document?

For the Pension Plan:

 - Benefits may be paid to an alternate payee before the initiation of benefits by the member, provided that the member has reached the earliest permissible retirement age (i.e., age 55) under the Pension Plan. The benefits payable to an alternate payee before the date the member reaches the Plan’s normal retirement age are actuarially reduced based on member’s age at the time payments begin to the alternate payee.
 - Benefits must begin no later than the date that the member initiates benefits.
 - The alternate payee may not name a beneficiary to receive benefits.
 - If the member is already retired, the order may either reinstate the alternate payee as the sole beneficiary of the survivor’s pension elected by the member upon retirement or assign all or assign a portion of the normal survivor’s pension to the alternate payee.
 - Retirement pension benefits are payable in equal monthly installments over the life of the member; survivor’s pension benefits are payable over the life of the alternate payee.
 - No lump sum settlements are allowed.

For the Retirement Savings Plan:

- Benefits may be paid to an alternate payee immediately upon final approval of the DRO.
 - The alternate payee may name a beneficiary to receive undistributed amounts.
 - The alternate payee may elect a lump sum settlement or any other distribution option under the Retirement Savings Plan.
11. Does the order require the plan only to provide benefits that do not exceed the member's plan benefits?
 12. Does the order refrain from affecting any benefits of a prior known DRO?

Drafting Information

For Domestic Relations Orders for the Pension Plan of the Benefits Plan of the Presbyterian Church (U.S.A.)

The Board of Pensions of the Presbyterian Church (U.S.A.) (the “Board”) has the responsibility to approve domestic relations orders that pertain to the Benefits Plan of the Presbyterian Church (U.S.A.) (the “Plan”), including the Pension Plan component of the Plan.

The Board provides the sample order on Page 12 for the convenience of the parties. It does not describe every method that could be used to divide a retirement benefit between a participant and an alternate payee. It may not be appropriate in every situation and therefore should not be used when not appropriate. Neither the Board nor its agents are responsible for determining whether use of the sample order is appropriate for a specific situation, and the provision of the sample order by the Board or its legal counsel shall not be considered legal advice.

The parties and their legal counsel may find the following information helpful when reviewing the sample order.

Paragraph 7: The order must define which of the pension credits that the member has accrued should be the subject of the order. A common approach is to divide the pension credits that were accrued during the marriage or up to the date of separation.

Paragraph 9: If no specific assignment of the survivor’s pension is made, no survivor’s pension will be paid to the alternate payee and all benefits payable to the alternate payee will cease at the member’s death, regardless of whether the alternate payee had already begun receiving retirement pension benefits at the time of the member’s death. The survivor pension under the Pension Plan’s normal form of benefit is equal to 50% of the member’s pension credits, thus, an award in Section 9 of the sample order of a survivor’s pension equal to the benefit payable on 100% of the Marital Pension Credits will result in a monthly benefit equal to 50% of the Marital Pension Credits. An award of a survivor’s pension equal to the benefit payable on 50% of the Marital Pension Credits will result in a monthly benefit equal to 25% of the Marital Pension Credits.

Example: An alternate payee is assigned a retirement pension benefit from the Pension Plan equal to 50% of the Marital Pension Credits, for a total of \$500 a month. If the member predeceases the alternate payee, the alternate payee will receive a survivor’s pension benefit of approximately \$500 a month if he or she was assigned a survivor’s pension equal to the benefit payable on 100% of the Marital Pension Credits; the alternate payee will receive a survivor’s pension benefit of approximately \$250 a month if he or she was assigned a survivor’s pension equal to the benefit payable on 50% of the Marital Pension Credits.

If the intent of the parties is to provide the alternate payee with the same benefit during and after the member’s life, generally the alternate payee must be assigned a survivor’s pension equal to the benefit payable on 100% of the Marital Pension Credits.

If the member is already retired, the survivor’s pension elected by the member is automatically cancelled at divorce. The order must specify if the alternate payee is to be assigned a survivor’s pension benefit. The alternate payee can be reinstated as the beneficiary of the survivor’s pension elected at retirement or can be assigned all or part of the normal survivor’s pension.

Paragraph 10: The order must specify how experience apportionments will be divided.

Note: A final DRO *must* be signed by a judge, the member, and his or her former spouse. The signatures of the parties’ attorneys are not required.

B. Sample Order for Pension Plan

Please note: The sample order is available for download at [Pensions.org](https://www.pensions.org).

Domestic Relations Order

(for Retirement and Survivor's Pension)

The parties, come by their attorneys, and upon joint motion, respectfully request the Court to enter the following Domestic Relations Order relating to the division of the interests of [Member's Name] in the Pension Plan of the Benefits Plan of the Presbyterian Church (U.S.A.) (the "Benefits Plan").

1. [Member's Name, Social Security Number, and Date of Birth] (hereinafter referred to as "Member") is the [Plaintiff, Defendant, Petitioner, Respondent] in this matter and a Member of the Benefits Plan of the Presbyterian Church (U.S.A.). [His/her] last known mailing address is _____.

2. [Alternate Payee's Name, Social Security Number, and Date of Birth] hereinafter referred to as "Alternate Payee") is the [Plaintiff, Defendant, Petitioner, Respondent] in this matter. [His/Her] last known mailing address is _____.

3. The Benefits Plan of the Presbyterian Church (U.S.A.) (hereinafter referred to as the "Benefits Plan") is a "church plan" as defined in Section 414(e) of the Internal Revenue Code of 1986 and in Title I of the Employee Retirement Income Security Act, as the same may be amended from time to time. The Benefits Plan includes a defined benefit pension program with retirement and survivor's pension benefits (the "Pension Plan").

4. The Benefits Plan is administered by The Board of Pensions of the Presbyterian Church (U.S.A.), 2000 Market Street, Philadelphia, PA 19103-3298.

5. The Benefits Plan provides, in Section 18.2, that an Alternate Payee may become entitled to receive a portion of the Member's retirement, and/or survivor's pension benefit pursuant to a domestic relations order issued by a court of competent jurisdiction.

6. The parties were married on [date of marriage] and [separated/divorced] on [date].

7. Marital Pension Credits. The Pension Plan pension credits that are subject to division under this order (the "Marital Pension Credits") are the pension credits accrued under the Pension Plan from [date of marriage] to [date of separation or divorce].

8. Division of Retirement Pension. The parties agree to divide the Member's accrued interest in the Pension Plan as follows: Alternate Payee is entitled to receive, and may be paid directly beginning the earliest allowable date, a monthly **retirement pension** equal to the retirement pension payable on [percentage] of the Marital Pension Credits (as defined in paragraph 7).

9. Division of Survivor's Pension Benefit. Alternate Payee is entitled to receive, and may be paid directly upon the death of the Member, a monthly **survivor's pension** equal to the survivor pension payable on [percentage] of the Marital Pension Credits (as defined in paragraph 7).

10. All benefits payable to the Alternate Payee shall be increased pro-rata to the extent that experience apportionments are granted on account of credits accrued by the Member in the Benefits Plan.

11. This Order is not intended to require the Benefits Plan to provide any type or form of benefits or any option not otherwise provided by the Benefits Plan, nor shall this Order require the Benefits Plan to provide for increased benefits not required by the plan.

12. This Order does not require the Benefits Plan to provide benefits to the Alternate Payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

13. All benefits payable under the Benefits Plan other than those payable to the Alternate Payee shall be paid to the Member in such manner and form as he/she may elect in his/her sole and undivided discretion, subject only to Benefits Plan requirements.

14. While it is anticipated that the Board of Pensions will pay the assigned benefits directly to the Alternate Payee, Member is designated a constructive trustee to the extent he/she receives any retirement benefits under the plan that are due to Alternate Payee but paid to Member.

Judge _____

Date _____

Witness _____

Member _____

Witness _____

Alternate Payee _____

Drafting Information

For Domestic Relations Orders for the Retirement Savings Plan of the Presbyterian Church (U.S.A.)

The Board of Pensions of the Presbyterian Church (U.S.A.) (the “Board”) has the responsibility to approve domestic relations orders that pertain to the Retirement Savings Plan of the Presbyterian Church (U.S.A.).

The Board provides the sample order on page 14 for the convenience of the parties. It does not describe every method that could be used to divide a retirement benefit between a participant and an alternate payee. It may not be appropriate in every situation and therefore should not be used when not appropriate. Neither the Board, Fidelity Investments, nor their agents are responsible for determining whether use of the sample order is appropriate for a specific situation, and the provision of the sample order by the Board or its legal counsel shall not be considered legal advice.

Note: A final DRO *must* be signed by a judge, the participant, and the alternate payee. The signatures of the parties’ attorneys are not required.

C. Sample Order for Retirement Savings Plan

Please note:

- The sample order is available for download at **Pensions.org**.
- The Retirement Savings Plan is a 403(b)(9) defined contribution plan. A DRO for this plan should not be submitted unless the member is a participant in the Retirement Savings Plan.

Domestic Relations Order

The parties, come by their attorneys, and upon joint motion, respectfully request the Court to enter the following Domestic Relations Order relating to the division of the interests of **[Participant's Name]** in the Retirement Savings Plan of the Presbyterian Church (U.S.A.).

1. [Participant's Name, Social Security Number, and Date of Birth] (hereinafter referred to as "Participant") is the **[Plaintiff, Defendant, Petitioner, Respondent]** in this matter and a Participant in the Retirement Savings Plan of the Presbyterian Church (U.S.A.). **[His/her]** last known mailing address is _____.

2. [Alternate Payee's Name, Social Security Number, and Date of Birth] (hereinafter referred to as "Alternate Payee") is the **[Plaintiff, Defendant, Petitioner, Respondent]** in this matter. **[His/her]** last known mailing address is _____.

3. The Retirement Savings Plan of the Presbyterian Church (U.S.A.) is a 403(b)(9) defined contribution "church plan" sponsored by The Board of Pensions of the Presbyterian Church (U.S.A.), 2000 Market Street, Philadelphia, PA 19103-3298.

4. The Retirement Savings Plan provides, in Section 10.1, that an Alternate Payee may become entitled to receive a portion of the Participant's benefit pursuant to a domestic relations order issued by a court of competent jurisdiction.

5. The parties were married on **[date of marriage]** and **[separated/divorced]** on **[date]**.

6. The parties agree to assign a portion of the Participant's interest in the Retirement Savings Plan to the Alternate Payee as follows:

(a) \$ _____ as of **[date]**.

OR

(b) _____ % of the account balance as of **[date]**.

7. The parties agree that all benefits payable to the Alternate Payee shall be increased or decreased by any investment gains or losses on the Alternate Payee's share of the account balance after the effective date of the division, **[date]**.

8. This domestic relations order is not intended to require the Retirement Savings Plan to provide any type or form of benefits or any option not otherwise provided by the Retirement Savings Plan, nor shall this Order require the Retirement Savings Plan to provide for increased benefits not required by the plan.

9. This Order does not require the Retirement Savings Plan to provide benefits to the Alternate Payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

10. All benefits payable under the Retirement Savings Plan other than those payable to Alternate Payee shall be paid to Participant in such manner and form as he/she may elect in his/her sole and undivided discretion, subject only to Retirement Savings Plan requirements.

11. While it is anticipated that the Board of Pensions will pay directly to Alternate Payee the benefits awarded to him/her, Participant is designated a constructive trustee to the extent he/she receives any distributions from the Retirement Savings Plan that are due to Alternate Payee but are paid to Participant.

Date _____

Judge _____

Date _____

Participant _____

Date _____

Alternate Payee _____



The Board of Pensions
of the Presbyterian Church (U.S.A.)

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