Due to compatibility issues, please download the document then fill it out.

STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM
City Financial Tower
201 Merchant Street, Suite 1400
Honolulu, Hawaii 96813-2980
Website: ers.ehawaii.gov

revised October 28, 2026

HAWAII DOMESTIC RELATIONS ORDERS

Guide for ERS Members, Former Members, Retirants, Spouses, and Former Spouses

BACKGROUND

A Hawaii Domestic Relations Order (HiDRO) (Hawaii Revised Statutes §88-93.5) is a domestic relations order that has been entered or domesticated by a court in the State of Hawaii, and qualified by the ERS. A HiDRO allows the ERS to directly pay all or a portion of a member, former member with vested status (collectively referred to as member) or retirant's (also known as the retiree) benefits to an alternate payee, such as a spouse or former spouse.

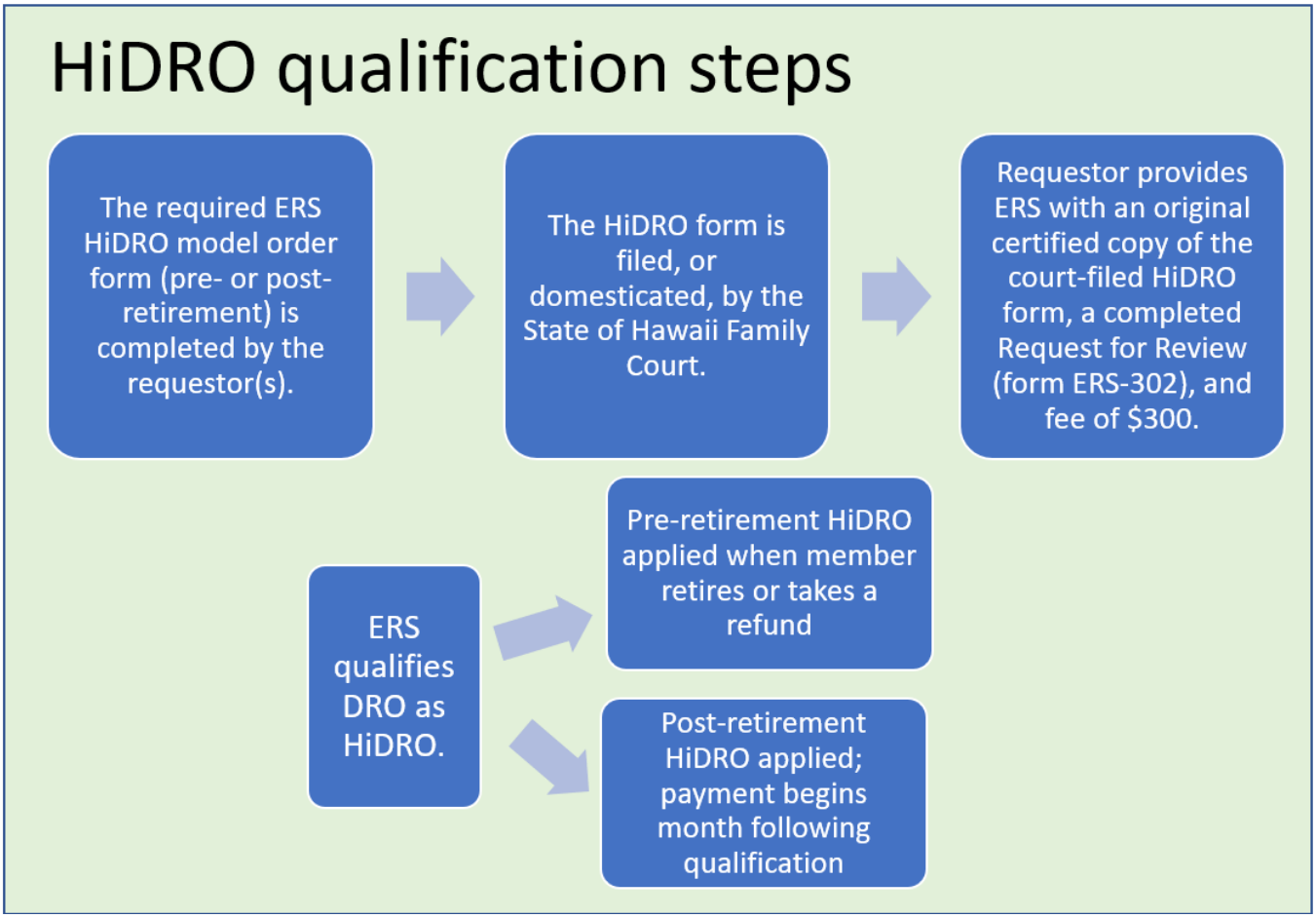
The information provided here is to help interested parties understand a HiDRO. It does not cover all the laws and procedures applicable to the HiDRO. General information about the ERS plan and benefits is available at the ERS website (http://ers.ehawaii.gov).

While the ERS can provide information about the plan, benefits and procedures, it cannot provide you with legal advice. Information provided should not be relied on as a determination of any legal issues under state law. You should consult an attorney to protect your interest in ERS benefits and determine your statutory rights under state law.

ABOUT HiDRO

A HiDRO can be applied to the ERS retirement benefits of a member or retirant. A HiDRO can be qualified by the ERS before retirement (pre-retirement, Form ERS-300) or after retirement (post-retirement, Form ERS-301). All HiDRO-related payments are subject to the ERS plan rules and regulations.

The ERS provides required model forms for pre- and post-retirement HiDROs. (See the flow chart below). The form must be completed by the requesting party or parties. The form must then be entered by a court. In Hawaii, it would be entered in Family Court; if entered by a foreign court, it must also be domesticated by a Hawaii court. An original certified copy of the court-filed HiDRO model form (and domestication order, if applicable) may then be submitted to ERS for qualification as a HiDRO, together with a Request for Review form (Form ERS-302), and fee of $300.00. A HiDRO can only be applied after it is qualified by the ERS. A Complaint for Divorce or Divorce Decree cannot be used in place of a HiDRO.



Pre- and Post-Retirement HiDRO Model Forms

Both HiDRO model forms identify the member/retirant and the alternate payee (spouse or former spouse) and their mailing addresses. It also identifies the amount or percentage of a benefit to be paid to the alternate payee, or the manner in which the percentage is to be determined. A non-refundable fee of $300 is required each time a HiDRO is submitted to the ERS for qualification.

A pre-retirement HiDRO model form (Form ERS-300) may be used if the ERS member is an active member or a former member with vested status, who has not retired and has not withdrawn their contributions upon termination (termination distribution). It must be submitted to the ERS prior to the member's retirement or termination distribution. The ERS will not accept a pre-retirement HiDRO model form for qualification on or after the date of the member's retirement or termination distribution. A qualified pre-retirement HiDRO will be applied at the time retirement benefits are eligible to be paid to the member. The pre-retirement HiDRO can be applied to retirement benefits, including a monthly pension and refund (available only for Contributory or Hybrid plan members choosing a refund retirement option). It can also be applied to a termination withdrawal of a member's accumulated contributions and/or hypothetical account balances (available only for Contributory and Hybrid plan members who terminate service and choose withdrawal instead of retirement).

A post-retirement HiDRO model form (Form ERS-301) may be used if the ERS member is or has ever retired. It can be submitted to the ERS anytime during the retirement. The ERS will not accept a post-retirement HiDRO model form before a member is retired. A post-retirement HiDRO can only be applied to a monthly pension, beginning the month after ERS qualifies the HiDRO, It is not retroactive to monthly pension payments paid prior to or during the month of qualification.

It is important to know that a HiDRO becomes void when the member, retirant, or alternate payee passes away. The HiDRO also does not provide for the election of a retirement option, the designation of a beneficiary, or the payment of a lump sum when a lump sum is not otherwise available to a member or retirant.

Review of a Proposed HiDRO Model Form

The ERS will not qualify as a HiDRO, any HiDRO model form prior to its entry or domestication by a court in the State of Hawaii. However, the ERS permits the optional review of a "proposed" HiDRO model form, prior to being entered by a court, to determine if it meets the requirements of a HiDRO. The ERS will issue a determination of whether meets the requirements of a HiDRO, as well as an explanation of any reasons it fails to meet the requirements of a HiDRO. Each submission must include a completed Form ERS-302 (Request for Review of Hawaii Domestic Relations Order or Proposed Hawaii Domestic Relations Order) with the original signature of the requestor, and review fee of $300 (non-refundable). An original certified copy of the Complaint for Divorce or Divorce Decree is required if the requestor is not the member or retirant.

The review of a "proposed" HiDRO model form for determination of whether it meets the requirements of a HiDRO, is optional, is meant to save parties the potential time and cost associated with having to obtain multiple court orders, is not a qualification that it is a HiDRO or will be a HiDRO once entered by a court, and is not meant to replace the qualification process. To be qualified as a HiDRO, the "proposed" HiDRO model form will subsequently need to be entered or domesticated by a court in the State of Hawaii, and then submitted to the ERS for qualification as described below (with another $300 fee for qualification).

Review of a Court-Entered HiDRO Model Form

A HiDRO model form that has been entered or domesticated by a court in the State of Hawaii will be reviewed for qualification by the ERS to determine if it meets the requirements of HiDRO. If it is qualified as a HiDRO, it will be applicable at the time indicated above. If it is not qualified as a HiDRO, it will be returned with an explanation of reasons it fails to meet the requirements for qualification as a HiDRO. Each submission must include a completed Form ERS-302 (Request for Review of Hawaii Domestic Relations Order or Proposed Hawaii Domestic Relations Order) with the original signature of the requestor, and a review fee of $300 (non-refundable).

Request for Information

Prior to completing a HiDRO model form, either of the parties in a divorce action can make a request for a member or retirant's ERS retirement benefit-related information by submitting an ERS Request for Information form (Form ERS-303). An original certified copy of the Complaint for Divorce or Divorce Decree is required if the requestor is not the member or retirant. The ERS will not release any beneficiary information except to the member or retirant. The ERS will provide the information available at the time of the request. The information does not include any projected future benefits. The member or retirant will be notified when a request of information is made from a spouse or ex-spouse.

Request by a Third-Party

Requests for Review of HiDROs (Form ERS-302) and Requests for Information (Form ERS-303) submitted by third parties (such as an attorney) on behalf of a requestor will not be processed unless the ERS is provided with a letter containing the original signature of the requestor verifying that the third party is authorized to act on their behalf.

ERS Retirement Plans

The ERS provides a lifetime pension to members who meet retirement requirements. ERS members are required to be enrolled in a plan based on their occupation. The plans are Contributory, Noncontributory and Hybrid, but details of the plan vary depending on the member's occupation and the employee's ERS membership date. To learn more about the plans, go to http://ers.ehawaii.gov. The basic calculation for a benefit, also known as the maximum allowance, is based on a formula using the years of service, the average highest-three or highest-five years of eligible compensation, and a benefit factor (percentage) based on the plan of the member. In lieu of the maximum allowance, the employee may elect to have an actuarially equivalent retirement allowance payment option, some of which take into consideration the age of the member and beneficiary, and the refund of contributions. The ERS will not determine or project a monthly pension until the member is retired and their pension is finalized, or a termination distribution until the member request withdrawal/distribution of their accumulated contributions or hypothetical account balance, and their accumulated contributions and/or hypothetical account balance is finalized.

Payment to the Alternate Payee – Pre-Retirement HiDRO

When the alternate payee is eligible to receive a payment, he or she will be notified by the ERS, and provided with the information and forms required to receive payment. For a pre-retirement HiDRO, an alternate payee's eligibility to receive payment occurs when a member retires or receives a termination distribution.

Payment to an alternate payee will be made at the same time as payment is made to the retirant, subject to receiving the required forms form the alternate payee. If the required forms are not received in time from the alternate payee, the initial payments will be held, including any option refunds. After a reasonable period of delay, however, the ERS will determine the retirant's due payments accordingly.

It is important to note that initial payment of benefits is based on an estimated amount and adjusted after the pension and refund, or termination distribution, is finalized by the ERS. Any adjustment is passed along to the member or retirant, as well as the alternate payee.

For more information on ERS's retirement plans, go to http://ers.ehawaii.gov.

Payment to the Alternate Payee – Post-retirement HiDRO

When a HiDRO is qualified after the member retires, and the alternate payee is eligible to receive a payment, he or she will be notified by the ERS, with the information and forms needed to receive payment. Payments will begin the month after ERS qualifies the HiDRO and receives the required forms for payment.

It is important to note that some initial payment of benefits may be based on an estimated amount and adjusted after the pension or refund is finalized by the ERS. Any adjustment is passed along to the member or retirant, as well as the alternate payee.

Post-Retirement Allowance (COLA)

An alternate payee will receive an annual post retirement allowance proportional to the alternate payee's portion of a retirant's monthly pension benefit. For Contributory, Noncontributory and Hybrid retirants with membership dates prior to July 1, 2012, the allowance is 2.5% of the base monthly pension benefit. For Contributory and Hybrid retirants with membership dates after June 30, 2012, the allowance is 1.5% of the base monthly pension benefit. For a pre-retirement HiDROs, the first post retirement allowance is added on July 1 in the year after the member's retirement. For a post-retirement HiDROs, previous post retirement allowances are added into the monthly pension benefit at the time of the first payment, and future post retirement allowances will be added every July 1.

Death of the Retirant or Alternate Payee

A HiDRO becomes void upon the death of the retirant or alternate payee. If the retirant dies before the alternate payee, payment to the alternate payee under the HiDRO will cease the month after the retirant's death, and survivor benefit payments will start for the beneficiary named by the retirant. If the alternate payee dies before the retirant, the amount paid to the alternate payee will be restored to the retirant starting the month after the alternate payee's death. If a named beneficiary dies before both the retirant and alternate payee, and the retirant is eligible for an increase in his or her monthly pension, the increase would also be passed along to an alternate

payee whose portion is determined by a percentage of the retirant's benefit or by a numerical dollar amount more the total distribution payable to the retirant.

Overpayment and Underpayment Between the Retirant and Alternate Payee

It is important to report the death of a retirant, beneficiary, or alternate payee as soon as possible. Any overpayment to the retirant or alternate payee under a HiDRO resulting in amounts owed to the other party will not be recovered or paid by the ERS; such overpayment would need to be resolved between the parties themselves. Any overpayment resulting in amounts owed to ERS should be transmitted by the party that was overpaid to the ERS. (Hawaii Revised Statutes §88-93.5(r)).

References

Hawaii Revised Statutes, Chapter 88-93.5 Distribution of property in a divorce action, effective July 1, 2020

Hawaii Administrative Rules, Chapter 6-40 Hawaii Domestic Relations Orders, effective July 1, 2020

Hawaii Domestic Relations Orders Frequently Asked Questions, revised October 28, 2026

Contact ERS

If you have any questions, please contact us at (808) 586-1735 from 8:00 a.m. to 4:00 p.m., Monday through Friday, except on State Holidays. The phone numbers for the Neighbor Islands and continental United States are also listed.

Hawaii	974-4000 ext. 61735	Molokai/Lanai	1-800-468-4644 ext, 61735
Maui	984-2400 ext. 61735	Continental US	1-888-659-0708
Kauai	274-3141 ext. 61735		

STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM
City Financial Tower
201 Merchant Street, Suite 1400
Honolulu, Hawaii 96813-2980
Website: ers.ehawaii.gov

revised October 28, 2026

HAWAII DOMESTIC RELATIONS ORDERS FREQUENTLY ASKED QUESTIONS

This document is intended for ERS members and other parties interested in the Hawaii Domestic Relations Orders (HiDRO). It contains general information about the HIDRO, but not inclusive of all information related to the HiDRO. An accompanying ERS HiDRO Guide is also available. If you have further questions, call ERS at 808-586-1735.

GENERAL INFORMATION

Should I get a HiDRO? The ERS does not advise whether a member, former member with vested benefit status (collectively referred to as member), retirant (also known as the retiree), or their spouse or ex-spouse should obtain a HiDRO. While the ERS can provide information about the plan, benefits and procedures, it cannot provide you with legal advice. Information provided should not be relied on as a determination of any legal issues under state law. You should consult an attorney to protect your interest in ERS benefits and determine your statutory rights under state law.

If I have a divorce decree, will ERS automatically pay my spouse or ex-spouse in accordance with my divorce decree? No. A HiDRO model form would need to be entered or domesticated by a court in the State of Hawaii, submitted to the ERS, and then qualified by the ERS as a HiDRO, before ERS makes payment to an alternate payee. A Divorce Decree or Complaint for Divorce cannot be used in place of a HiDRO.

What is the difference between the pre-retirement and post-retirement HiDRO model forms? A pre-retirement HiDRO model form (Form ERS-300) should be submitted if the member or former member is not yet retired, has not previously retired, and has not withdrawn contributions upon termination from employment (termination distribution). A court-entered pre-retirement HiDRO model form submitted to the ERS on or after the date of a member's retirement or termination distribution will not be accepted. The pre-retirement HiDRO can provide an alternate payee with a portion of the member's monthly pension and refund of accumulated contributions when the member retires, or termination distribution if and when a member terminates service and withdraws accumulated contributions and/or hypothetical account balance (Hybrid plan only) balance prior to retirement. A post-retirement HiDRO model form (Form ERS-301) should be submitted if the member is a retirant, or has previously retired

(and returned to work). The post-retirement HiDRO can provide an alternate payee with the retirant's monthly pension, starting the month after qualification of the HiDRO.

What information is required by the HiDRO model form? The required HiDRO model form, provided by the ERS, is required to identify the member and the alternate payee and their addresses. It also indicates the percentage or amount to be paid to the alternate payee, or the way in which the percentage is to be determined. The form also specifies that the HiDRO applies to ERS. The required HiDRO model form must be entered by a court (and domesticated if entered by a court outside of Hawaii) prior to being considered for qualification by the ERS. Failure to use HiDRO Model Forms, or modification of HiDRO Model Forms, may result in denial of qualification as a HiDRO. The HiDRO model form is available at http://ers.ehawaii.gov or by calling 808-586-1735.

What is the general process for a HiDRO model form to be qualified by the ERS as a HiDRO? The requesting party or parties, or their legal representatives, are required to complete a HiDRO model form, and obtain entry of the HiDRO model form by a court in the State of Hawaii (or domestication by a court in in the State of Hawaii if entered by a court outside of Hawaii). For the ERS to determine whether the court-entered HiDRO model form is qualified as a HiDRO, the requesting party(ies) will need to submit to the ERS, an original certified copy of the court-entered HiDRO model form, a Request for Review (Form ERS-302), and a $300 fee for review. Upon qualification, the HiDRO will be applied to a former member or retirant's benefit or termination distributions in accordance with a pre- or post-retirement HiDRO.

Would I be able to have a proposed HiDRO model form reviewed by the ERS before it has been entered by the court? Yes. The ERS can review a completed proposed HiDRO model form to determine if it would meet the requirements of a HiDRO. However, the review of a proposed HiDRO model form (prior to court entry) is optional; the review of a proposed HiDRO model form does not result in qualification as a HiDRO or entitle an alternate payee to a portion of the member/retirant's retirement benefits or termination distributions; a court-entered HiDRO model form will still need to be submitted and qualified by the ERS for the alternate payee to receive a portion of the member/retirant's retirement benefits or termination distributions; and each review of proposed or court-entered HiDRO model form will be subject to the non-refundable $300 fee for each review. An original certified copy of the Complaint for Divorce or Divorce Decree also is required if the requestor is not the member or retirant.

The HiDRO model form refers to "service credits the system determines has been credited to the Member" when choosing a percentage in the formula based on the dates of marriage. What are "service credits?" An ERS service credit is earned each month that a member works a minimum number of hours and/or days. It is possible for a member to not receive service credits when on leave without pay or employed in a position that is ineligible for ERS membership.

Can the ERS help me with the filing of the HiDRO model form in court? No. Seek legal advice and/or check with the appropriate court in which the divorce was filed.

What is required if I am asking my attorney to submit HiDRO-related requests on my behalf? Requests for Review of HiDROs (Form ERS-302) and Requests for Information (Form ERS-303) submitted by third parties (such as an attorney) on behalf of a requestor will not be processed unless the ERS is provided with a letter containing the original signature of the requestor verifying that the third party is authorized to act on their behalf.

FEES, PAYMENTS AND TAXES

Will there be any ERS fees related to the review of a HiDRO model form? The law allows the ERS to collect filing fees for the review of proposed HiDRO model forms, and court-entered HiDRO model forms. The ERS Board of Trustees approved a non-refundable filing fee of $300 for the review of each proposed and court-entered HiDRO model form. Additional fees may be incurred if the HiDRO model form requires further legal or actuarial review. Checks must be made payable to "Employees' Retirement System".

When will an alternate payee start receiving payments? For a pre-retirement HiDRO, the ERS will make direct payments to the alternate payee at the same time the member begins receiving retirement benefit payments and refund of accumulated contributions, or termination distributions. For a post-retirement HiDRO, the ERS will make direct payments to the alternate payee beginning the month after the HiDRO model form is qualified as a HiDRO. Payments may be delayed if not all required forms are turned in by the alternate payee. Recurring monthly payments are made by direct deposit once a month, at the end of the month.

Can the HiDRO be applied to an active member's contributions? No. A pre-retirement HiDRO can only be applied to a member's retirement benefits and refund of accumulated contributions upon retirement, or termination distributions (accumulated contributions and/or hypothetical account balances) upon termination from employment. A former member who has taken a termination distribution is no longer a member of the system and is no longer eligible for retirement benefits.

Can a HiDRO be applied to any benefits already distributed or paid out by the ERS? No. The HiDRO does not provide payment of benefits that have already been distributed to the former ERS member or retirant.

Will the alternate payee have to pay taxes? An alternate payee generally has the same tax consequences as the member or retirant, including rollover rights of eligible lump-sum payments. The alternate payee is responsible for applicable taxes on ERS distributions. Consult a tax adviser if you have additional questions.

Are alternate payees eligible for the annual post-retirement increase? The alternate payee will receive a post-retirement increase each year when the retirant receives it.

REQUESTS FOR INFORMATION

Can I make a request for HiDRO-related information for an ERS member or retirant prior to seeking a HiDRO? Yes. Upon receipt of a completed ERS Request for Information (Form ERS-303) and an original certified copy of the complaint for divorce or divorce decree, the ERS will provide the spouse or former spouse with HiDRO-relevant ERS information of the member retirant. A member seeking information can submit a Request for Information (Form ERS-303) without the complaint for divorce or divorce decree. Beneficiary information will not be released. The ERS will provide information available as of the date of the request, and will not include projected future benefits.

How can I find information about the ERS retirement plans? Brochures for the plans are located on our website: http://ers.ehawaii.gov.

BENEFICIARIES AND RETIREMENT OPTION

Does the HiDRO affect a member's designation of beneficiary or selection of retirement payment option? No. A HiDRO cannot require the designation of a particular person as the beneficiary of death benefits, or the selection of a particular retirement payment option.

DEATH

Can the HiDRO specify a lifetime benefit for the alternate payee? No. A HiDRO is void upon the death of the member, retirant, or alternate payee. Generally, if a member or retirant predeceases an alternate payee, HiDRO payments to the alternate payee, if any, would stop, and the designated beneficiary or beneficiaries would receive death benefits, if any. If the alternate payee predeceases a retirant, the portion being paid to the alternate payee would be restored to the member the month after the death is reported to the ERS.

RESOURCES

Hawaii Revised Statues Chapter 88-93.5, Distribution of property in a divorce action, effective July 1, 2020

Hawaii Administrative Rules Chapter 6-40, Hawaii Domestic Relations Orders, effective July 1, 2020

Hawaii Domestic Relations Orders Guide, revised October 28, 2026

Contact ERS

If you have any questions, please contact us at (808) 586-1735 from 8:00 a.m. to 4:00 p.m., Monday through Friday, except on State Holidays. The phone numbers for the Neighbor Islands and continental United States are also listed.

Hawaii	974-4000 ext. 61735
Maui	984-2400 ext. 61735
Kauai	274-3141 ext. 61735
Molokai/Lanai	1-800-468-4644 ext, 61735
Continental US	1-888-659-0708

Molokai/Lanai	1-800-468-4644 ext, 61735
Continental US	1-888-659-0708

ERS-300 (rev. 02-14-2022)

This document is prepared by:

☐ Attorney for ☐ Plaintiff ☐ Defendant
Name: _____
Address: _____
_____
_____
Telephone: (_____) _____ - _____

STATE OF HAWAI‘I
FAMILY COURT
_____ CIRCUIT

_____ (name), Plaintiff v. _____ (name), Defendant	FC-D No. _____ HAWAII DOMESTIC RELATIONS ORDER FOR THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII (**PRE**-RETIREMENT) Judge: _____

HAWAII DOMESTIC RELATIONS ORDER FOR THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII (**PRE**-RETIREMENT)

A hearing was held before the Presiding Judge or the Court waived hearing on the matter. After full consideration of the evidence,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

1. This Hawaii Domestic Relations Order for the Employees' Retirement System of the State of Hawaii ("Order") is intended to meet the requirements for a "Hawaii domestic relations order" ("HiDRO") set forth in Section 88-93.5 of the Hawai‘i Revised Statutes ("HRS") and Sections 6-40-1, et seq., of the Hawai‘i Administrative Rules ("HAR"), and upon determination by the Employees' Retirement System of the State of Hawaii ("ERS" or "System") that this Order meets the requirements for a HiDRO, this Order shall supersede and replace all prior orders between the same parties intended to meet or meeting the requirements for a HiDRO. This Order is an integral part of the Decree of Divorce filed by the court on

_____ (date), ☐ (check if post decree orders/stipulations apply) and the _____ (name of post decree order/stipulation) filed by the court on _____ (date).

2. This Order creates or recognizes the right of the alternate payee identified in Paragraph 4 below ("Alternate Payee"), or assigns to the Alternate Payee, to receive a portion of the benefits

payable with respect to the member, a former member with vested benefit status, or retirant identified in Paragraph 3 below ("Member") under the System.

3. The MEMBER of the System is:

☐ Plaintiff ☐ Defendant (check one)
Name: _____
Mailing address: _____
_____
Telephone: (_____) _____ - _____
Social Security No: XXX – XX - _____
Employer: _____
Employer's address: _____
_____

4. The ALTERNATE PAYEE (spouse or former spouse) is:

☐ Plaintiff ☐ Defendant (check one)
Name: _____
Mailing address: _____
_____
Telephone: (_____) _____ - _____
Social Security No: XXX – XX - _____

5. Member and Alternate Payee were married on _____ (date).

6. RETIREMENT BENEFITS. As part of the division of the property of the parties, the Alternate Payee is awarded a portion of retirement benefits made by the System pursuant to HRS §§ 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 and/or 88-336, if and at the time the retirement benefits become payable to the Member, as provided by and subject to the System's governing laws and rules, and Paragraphs 8 and 9 below.

A. Monthly Retirement Allowance. The Alternate Payee's portion of the Member's monthly retirement allowance under the retirement allowance payment option elected by the Member and remaining after payments required to be paid to other alternate payees pursuant to earlier HiDROs, shall be (check <u>one</u>):

☐ **1.** A percentage determined by the following formula:

$$\underbrace{_____\%}_{\text{(fractional marital property interest)}} \times \frac{\text{Months of service credits the System determines has been credited to the Member from } _____ \text{ (date of marriage) through } _____ \text{ (date of divorce)}}{\text{Total months of service credit the System determines has been credited to the Member upon retirement}}$$

☐ **2.** A percentage determined by the following formula:

_____% (fractional marital property interest) X (Months of service credits the System determines has been credited to the Member from _____ (date) through _____ (date)) / (Total months of service credit the System determines has been credited to the Member upon retirement)

☐ **3.** A percentage determined by the following formula:

_____% (fractional marital property interest) X (_____ (number) of months of service credits, or the total months of service credits the System determines has been credited to the Member, whichever is less) / (Total months of service credit the System determines has been credited to the Member upon retirement)

☐ **4.** _____ (numerical percentage) %.

☐ **5.** $_____._____ (numerical dollar amount), or the total distribution payable to the Member, whichever is less.

☐ **6.** None.

B. Refund of Accumulated Contributions. The Alternate Payee's portion of the Member's refund of accumulated contributions under the retirement allowance option providing for the refund of accumulated contributions elected by the Member, if any, and remaining after payments required to be paid to other alternate payees pursuant to earlier HiDROs, shall be (check <u>one</u>):

☐ **1.** A percentage determined by the following formula:

_____% (fractional marital property interest) X (Months of service credits the System determines has been credited to the Member from _____ (date of marriage) through _____ (date of divorce)) / (Total months of service credit the System determines has been credited to the Member upon retirement)

☐ **2.** A percentage determined by the following formula:

$$\underline{\quad\quad\quad}\% \text{ (fractional marital property interest)} \times \frac{\text{Months of service credits the System determines has been credited to the Member from } \underline{\quad\quad\quad} \text{ (date) through } \underline{\quad\quad\quad} \text{ (date)}}{\text{Total months of service credit the System determines has been credited to the Member upon retirement}}$$

☐ **3.** A percentage determined by the following formula:

$$\underline{\quad\quad\quad}\% \text{ (fractional marital property interest)} \times \frac{\underline{\quad\quad\quad} \text{ (number) of months of service credits, or the total months of service credits the System determines has been credited to the Member, whichever is less}}{\text{Total months of service credit the System determines has been credited to the Member upon retirement}}$$

☐ **4.** _____ (numerical percentage) %.

☐ **5.** $_____._____ (numerical dollar amount), or the total distribution payable to the Member, whichever is less.

☐ **6.** None.

C. Commencement and Termination of Payment. Payments to the Alternate Payee shall be effective as of the same date that benefit payments are available to the Member. Payments of the portion awarded to the Alternate Payee, subject to Paragraphs 6(D), 7, 8 and 9 below, shall terminate upon the death of the Retirant, or upon the death of the Alternate Payee, whichever is earlier.

D. Payment Upon the Death of the Retirant or Alternate Payee. When the System receives a certified copy of this Order prior to the Retirant's retirement, and if this Order is determined to be a HiDRO, the portion awarded to the Alternate Payee by the Order shall be paid as a portion of the retirement benefit the Retirant is receiving pursuant to HRS §§ 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 and/or 88-336 as follows:

1. If the alternate payee will be named beneficiary under any option elected by the Retirant at retirement, upon the death of the Retirant or the alternate payee, the benefit amount to be paid to the survivor shall be the amount

required under the option elected by the Retirant at retirement, as though no HiDRO had existed; or

2. If the alternate payee will not be a named beneficiary under the option elected by the Retirant at retirement, and the Retirant predeceases the alternate payee, payments to the alternate payee shall cease and payments to the Retirant's named beneficiary or beneficiaries shall be made as required under the option elected by the Retirant at retirement, as though no HiDRO had existed. If the alternate payee will not be a named beneficiary under the option elected by the Retirant at retirement, and the alternate payee predeceases the Retirant, the benefit then being paid to the Retirant shall be increased by the amount of the benefit that was being paid to the alternate payee at time of death.

7. TERMINATION DISTRIBUTIONS. As part of the division of the property of the parties, the Alternate Payee is awarded a portion of the distribution of accumulated contributions and/or hypothetical account balances made by the System pursuant to HRS §§ 88-96 and/or 88-341, if and at the time they are withdrawn by the Member as provided by and subject to the System's governing laws and rules, and subject to Paragraphs 8 and 9 below. The Alternate Payee's portion of the Member's distribution of accumulated contributions and/or hypothetical account balances, if any, remaining after payments required to be paid to other alternate payees pursuant to earlier HiDROs, shall be (check one):

☐ **A.** A percentage determined by the following formula:

$$\underbrace{_____\%}_{\text{(fractional marital property interest)}} \times \frac{\text{Months of service credits the System determines has been credited to the Member from _____ (date of marriage) through _____ (date of divorce)}}{\text{Total months of service credit the System determines has been credited to the Member upon retirement}}$$

☐ **B.** A percentage determined by the following formula:

$$\underbrace{_____\%}_{\text{(fractional marital property interest)}} \times \frac{\text{Months of service credits the System determines has been credited to the Member from _____ (date) through _____ (date)}}{\text{Total months of service credit the System determines has been credited to the Member upon retirement}}$$

☐ **C.** A percentage determined by the following formula:

_____% (fractional marital property interest) X $\frac{\text{_____ (number) of months of service credits, the total months of service credits the System determines has been credited to the Member, whichever is less}}{\text{Total months of service credit the System determines has been credited to the Member upon retirement}}$

☐ **D.** _____ (numerical percentage) %.

☐ **E.** $_____._____ (numerical dollar amount), or the total distribution payable to the Member, whichever is less.

☐ **F.** None.

When the System receives a certified copy of this Order prior to the Member's termination of membership, if this Order is determined to be a HiDRO, and if the Member terminates membership in the System by withdrawal of contributions and/or hypothetical account balance pursuant to HRS §§ 88-96 and/or 88-341, the System, except as provided in Paragraphs 8 and 9 below, shall pay the Alternate Payee at the time contributions and/or hypothetical account balance are withdrawn, the portion that is awarded to the Alternate Payee in the form of a lump sum.

8. When the System has not yet begun to make payment to the Alternate Payee under this Order and is provided with proof of the death of the Alternate Payee, benefits payable with respect to the Member shall be paid without regard to this Order.

9. If the Member retires or withdraws accumulated contributions and/or hypothetical account balances after this Order is determined to be a HiDRO, and subsequently returns to employment requiring active membership in the System:

A. Payments to the Alternate Payee pursuant to the Order shall not be suspended; and

B. The System shall pay to the Alternate Payee no portion of any benefits payable to the Member that result from the resumption of membership, even if those benefits result in part from reinstatement of service credit initially credited during marriage.

10. Any amount payable by the ERS, other than those payable to the Alternate Payee under Paragraphs 6 and 7 above, shall be payable directly to the Member, the Member's beneficiaries, or the estate, heirs, or legatees of either, in accordance with the System's laws and rules. If the Member, or the beneficiary or estate of either, receives the amount of any distribution that has

been awarded to the Alternate Payee, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the person to whom the amount should have been paid. If the Alternate Payee, or the estate, heirs, or legatees of the Alternate Payee receive any amount of a distribution that has not been awarded to the Alternate Payee, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the Member, or other person to whom the amount should have been paid. If the Member, Member's beneficiary, Alternate Payee, or their estate, heirs, or legatees, receives any amount that should not have been paid by the System, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the System.

11. The Alternate Payee is ordered to report any payments received from the System on any applicable income tax return in accordance with the Internal Revenue Code provisions or regulations in effect at the time any payments are issued by the ERS. The System is authorized to issue a Form 1099R, or other applicable form on any direct payment made to the Alternate Payee.

12. The Alternate Payee is ordered to provide the System with prompt notification of any changes in the Alternate Payee's direct deposit and mailing address. The System shall not be liable for failing to make payments to the Alternate Payee if the System does not have current direct deposit information for the Alternate Payee at the time of payment. Nor is the System liable for the non-receipt of a Form 1099R if the ERS does not have current mailing address information at the time of issue.

13. The Member or the Alternate Payee shall furnish an original certified copy of this Order to the ERS. The Order is not a qualified HiDRO until an original copy is received by the ERS and is thereafter so deemed pursuant to HRS § 88-93.5, as revised, and HAR § 6-40-1, et seq.

14. This Order shall not be interpreted in any way to:

A. Require the designation by the Member of a particular person as the recipient of benefits upon the death of the Member;

B. Require the selection of a particular benefit payment plan or option or to limit the benefit payment plans or options from which the Member may select;

C. Require any action on the part of the System contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to the Alternate Payee;

D. Award the Alternate Payee an interest that is contingent on any condition other than those conditions resulting in the liability of the System for payment under its plan provisions;

E. Give to someone other than the Member the right to designate a beneficiary or to choose any retirement plan or option available from the System;

F. Attach a lien to any part of amounts payable with respect to the Member;

G. Require the System to make a lump sum payment of the awarded portion of the benefits to the Alternate Payee that are not otherwise payable in a lump sum;

H. Require the System to terminate the Member from membership or employment, to refund contributions, or to retire the Member;

I. Provide any type or form of benefit, or any option, not otherwise provided by the System;

J. Provide increased benefits, determined on the basis of actuarial value; or

K. Require the System to provide benefits or refunds to the Alternate Payee that are required to be paid to other alternate payees pursuant to earlier HiDROs.

15. This Court does not have jurisdiction over the System with respect to this divorce action, and the System shall not and has not been made a party to this divorce action and any other judicial proceeding herein. A determination by the System that this Order is not a HiDRO shall be subject to review as provided in HRS chapter 91, and the System's rules relating to contested cases. Any party to this divorce action who attempts to make the System a party to this divorce action shall be liable to the System for the System's costs and attorneys' fees, including attorneys' fees and costs for obtaining a dismissal.

16. The Court retains jurisdiction to amend this Order so that it will constitute a qualified HiDRO under the System's governing laws and rules even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If the System determines at any time that changes in the law, the administration of the System, or any other circumstances make it impossible to calculate the portion of a distribution awarded to the Alternate Payee by this Order and so notifies the parties, either or both parties shall immediately petition the Court for reformation of the Order.

DATED: _____ (city), Hawai‘i, _____, 20_____.

_____

Judge _____

APPROVED AS TO FORM AND CONTENT:

X_____
Signature of Plaintiff
Print name:_____
Date: _____

APPROVED AS TO FORM AND CONTENT:

X _____
Signature of Defendant
Print name: _____
Date: _____

APPROVED AS TO FORM:

X_____
Signature of Attorney for Plaintiff
Print name:_____
Date: _____

APPROVED AS TO FORM:

X_____
Signature of Attorney for Defendant
Print name: _____
Date: _____

INSTRUCTIONS FOR HAWAII DOMESTIC RELATIONS ORDER
FOR THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII
(PRE-RETIREMENT FORM ERS-300 ONLY)

These instructions are for the completion of a Hawaii Domestic Relations Order (HiDRO) for the Employees' Retirement System of the State of Hawaii (ERS), and are specific to a pre-retirement order to be filed and qualified before a member or former member with vested status (member) retires or makes a termination distribution. If the member is retired, a post-retirement form should be used. If a termination distribution has already been processed, no portion can be awarded to an alternate payee. A Divorce Decree or Complaint for Divorce **cannot** be used in place of this form.

A Hawaii Domestic Relations Order allows the ERS to directly pay all or a portion of a member's benefit to an alternate payee, such as a spouse or former spouse. Benefits include the member's monthly retirement payment, refund of accumulated contributions upon retirement, and termination distributions upon leaving service and forfeiting retirement benefits. To be valid, this form must be signed and filed, or domesticated, by a State of Hawaii Court, and then qualified by the ERS. A completed Request for Review (form ERS-302), and fee of $300 (check made to the Employees' Retirement System of the State of Hawaii) must also accompany this form before it is reviewed for qualification by ERS.

General information about the ERS plan and options for members and retirees is available at the ERS website (ers.ehawaii.gov). If more information about a specific member's account is needed prior to filing a HiDRO form, submit a Request for Information (form ERS-303, found at https://ers.ehawaii.gov/hidro). While the ERS can provide information about the plan, benefits and procedures, it cannot provide you with legal advice. Information provided should not be relied on as a determination of any legal issues under state law. You should consult an attorney to protect your interest in ERS benefits and determine your statutory rights under state law.

Please ensure that the current version of the HiDRO model form (ERS-300 or ERS-301) is being used to prevent rejection of your submission. The ERS will reject the submission of a prior version of the HiDRO model form if submitted more than 9 months after the date a superseding (current) HiDRO model form has been approved by the ERS Board of Trustees. The current forms are posted at https://ers.ehawaii.gov/hidro.

Read and fill out the form completely to avoid any unnecessary fees.

INSTRUCTIONS (by the paragraph number on the form)

Caption (the top half of page 1). Enter the name, address and telephone number of the party preparing the document. Enter the name of the court, names of parties, case number, and name of judge.

Paragraph numbers:

1. Enter the date the Divorce Decree was filed by the court. If there is any post decree order or stipulation, enter a checkmark in the box, enter the name of post decree order or stipulation, and enter the date the post decree order or stipulation was filed by the court.

3. Enter the name and information of the member, and checkmark whether the member is the plaintiff or defendant in the Divorce Decree.

4. Enter the name and information of the alternate payee, and checkmark whether the alternate payee is the plaintiff or defendant in the Divorce Decree.

5. Enter the date of marriage (month, day, year).

6A. Applies to the member's **monthly retirement payment**. **Choose only one (1, 2, 3, 4, 5 or 6)**:

- **Checkmark 1** if the portion paid to the alternate payee is to be determined by the formula using the member's service credits from the date of marriage to the date of divorce. In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the

dates of marriage and divorce. The bottom right of the formula will be the member's total service credits at the time of retirement as determined by the ERS.

- **Checkmark 2** if the portion paid to the alternate payee is to be determined by the formula using the member's service credits from a designated start date to a designated end date (other than the dates of marriage and divorce). In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the start and end dates. The bottom right of the formula will be the member's total service credits at the time of retirement as determined by the ERS.
- **Checkmark 3** if the portion paid to the alternate payee is to be determined by the formula using a designated number of the member's service credits (other than service credits from the dates of marriage to divorce, or designated start and end dates), not to exceed the total months of service credits the System determines has been credited to the member. In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the number of service credits (in months). The bottom right of the formula will be the member's total service credits at the time of retirement as determined by the ERS.
- **Checkmark 4** if the portion to the alternate payee is a designated numerical percentage of the entire monthly pension payment. Enter the numerical percentage.
- **Checkmark 5** if the portion to the alternate payee is a designated numerical dollar amount, not to exceed the total distribution payable to the member. Enter the numerical dollar amount.
- **Checkmark 6** if none of the member's pension monthly pension payment will be distributed to the alternate payee.

Numerical percentages should be entered using no more than three decimal digits (e.g., 33.333).

6B. Applies to a **refund of accumulated contributions** as part of the retirement payment. **Contributory and Hybrid** members can take a lump sum refund of accumulated contributions at the time of retirement, depending on the retirement allowance option that they choose. **Choose only one (1, 2, 3, 4, 5 or 6). Choose No. 6 for a Noncontributory member, because no refund is available.**

- **Checkmark 1** if the portion paid to the alternate payee is to be determined by the formula using the member's service credits from the date of marriage to the date of divorce. In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the dates of marriage and divorce. The bottom right of the formula will be the member's total service credits at the time of retirement as determined by the ERS.
- **Checkmark 2** if the portion paid to the alternate payee is to be determined by the formula using the member's service credits from a designated start date to a designated end date (other than the dates of marriage and divorce). In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the start and end dates. The bottom right of the formula will be the member's total service credits at the time of retirement as determined by the ERS.
- **Checkmark 3** if the portion paid to the alternate payee is to be determined by the formula using a designated number of the member's service credits (other than service credits from the dates of marriage to divorce, or designated start and end dates), not to exceed the total months of service credits the System determines has been credited to the member. In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the number of service credits (in months). The bottom right of the formula will be the member's total service credits at the time of retirement as determined by the ERS.
- **Checkmark 4** if the portion to the alternate payee is a designated numerical percentage of the entire refund. Enter the numerical percentage.
- **Checkmark 5** if the portion to the alternate payee is a designated numerical dollar amount, not to exceed the total distribution payable to the member. Enter the numerical dollar amount.
- **Checkmark 6** if none of the member's refund of contributions will be distributed to the alternate payee.

Numerical percentages should be entered using no more than three decimal digits (e.g., 33.333).

7. Applies to a **distribution of accumulated contributions or hypothetical account balance** as a part of separation from service, request for distribution and termination of ERS membership. **Contributory or Hybrid** members who separate from service prior to retirement, can request a distribution of accumulated contributions or hypothetical account balance. Upon such distribution, the member terminates ERS membership and is no longer

eligible for retirement. **Choose only one (A, B, C, D, E or F)**. **Choose F for a Noncontributory member, because no distribution is available.**

- **Checkmark A** if the portion paid to the alternate payee is to be determined by the formula using the member's service credits from the date of marriage to the date of divorce. In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the dates of marriage and divorce. The bottom right of the formula will be the member's total service credits at the time of termination as determined by the ERS.
- **Checkmark B** if the portion paid to the alternate payee is to be determined by the formula using the member's service credits from a designated start date to a designated end date (other than the dates of marriage and divorce). In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the start and end dates. The bottom right of the formula will be the member's total service credits at the time of termination as determined by the ERS.
- **Checkmark C** if the portion paid to the alternate payee is to be determined by the formula using a designated number of the member's service credits (other than service credits from the dates of marriage to divorce, or designated start and end dates), not to exceed the total months of service credits the System determines has been credited to the member. In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the number of service credits (in months). The bottom right of the formula will be the member's total service credits at the time of termination as determined by the ERS.
- **Checkmark D** if the portion to the alternate payee is a designated numerical percentage of the total distribution payable to the member. Enter the numerical percentage.
- **Checkmark E** if the portion to the alternate payee is a designated numerical dollar amount, not to exceed the total distribution payable to the member. Enter the numerical dollar amount.
- **Checkmark F** if none of the member or former member's total distribution will be payable to the alternate payee.

Numerical percentages should be entered using no more than three decimal digits (e.g., 33.333).

Signatures. The judge's signature must be obtained after completing the form. The court may require that the signatures of the parties and attorneys (if applicable) be obtained. If the HiDRO form is signed and filed by a court other than a State of Hawaii court, domestication must also be obtained from a Hawaii court.

Footer (the bottom of the last page). Enter the name of the parties, court, and case number.

Submit an original certified copy of the court-filed HiDRO form (and domestication if applicable), a completed Request for Review (form ERS-302, found at https://ers.ehawaii.gov/hidro), and a nonrefundable $300 fee, to the Employees' Retirement System, 201 Merchant Street, Suite 1400, Honolulu, HI 96813, or call us (808-586-1735) for Neighbor Island locations. If submitted by a third-party (such as an attorney) on behalf of a member or alternate payee, also submit a letter containing the original signature of the member or alternate payee verifying that the third-party is authorized to act on the member or alternate payee's behalf. Upon receipt, the ERS will begin review of the court-filed HiDRO form for qualification.

(Rev. 2022-09-13)

This document is prepared by:

☐ Attorney for ☐ Plaintiff ☐ Defendant
Name: _____
Address: _____
_____
_____
Telephone: (_____) _____ - _____

STATE OF HAWAI‘I
FAMILY COURT
_____ CIRCUIT

_____ (name), Plaintiff v. _____ (name), Defendant	FC-D No. _____ HAWAII DOMESTIC RELATIONS ORDER FOR THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII (**POST**-RETIREMENT) Judge: _____

HAWAII DOMESTIC RELATIONS ORDER FOR THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII (**POST**-RETIREMENT)

A hearing was held before the Presiding Judge or the Court waived hearing on the matter. After full consideration of the evidence,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

1. This Hawaii Domestic Relations Order for the Employees' Retirement System of the State of Hawaii ("Order") is intended to meet the requirements for a "Hawaii domestic relations order" ("HiDRO") set forth in Section 88-93.5 of the Hawai‘i Revised Statutes ("HRS") and Sections 6-40-1, et seq., of the Hawai‘i Administrative Rules ("HAR"), and upon determination by the Employees' Retirement System of the State of Hawaii ("ERS" or "System") that this Order meets the requirements for a HiDRO, this Order shall supersede and replace all prior orders between the same parties intended to meet or meeting the requirements for a HiDRO. This Order is an integral part of the Decree of Divorce filed by the court on

_____ (date), ☐ (check if post decree orders/stipulations apply) and the _____ (name of post decree order/stipulation) filed by the court on _____ (date).

2. This Order creates or recognizes the right of the alternate payee identified in Paragraph 4 below ("Alternate Payee"), or assigns to the Alternate Payee, to receive a portion of the benefits

payable with respect to the member or retirant identified in Paragraph 3 below ("Retirant") under the System.

3. The RETIRANT of the System is:

☐ Plaintiff ☐ Defendant (check one)
Name: _____
Mailing address: _____
_____
Telephone: (_____) _____ - _____
Social Security No: XXX – XX - _____
Former Employer: _____
Former Employer's address: _____

4. The ALTERNATE PAYEE (spouse or former spouse) is:

☐ Plaintiff ☐ Defendant (check one)
Name: _____
Mailing address: _____
_____
Telephone: (_____) _____ - _____
Social Security No: XXX – XX - _____

5. Retirant and Alternate Payee were married on _____ (date).

6. RETIREMENT BENEFITS. As part of the division of the property of the parties, the Alternate Payee is awarded a portion of each distribution of retirement benefits made by the System pursuant to HRS §§ 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 and/or 88-336, if and at the time the retirement benefits become payable to the Retirant, as provided by and subject to the System's governing laws and rules, and Paragraphs 7, 8 and 9 below. The Alternate Payee's portion of the Retirant's monthly retirement allowance under the retirement allowance payment option elected by the Retirant and remaining after payments required to be paid to other alternate payees pursuant to earlier HiDROs, shall be (check one):

☐ **A.** A percentage determined by the following formula:

$$\underbrace{_____\%}_{\substack{\text{(fractional marital property interest)}}} \times \frac{\substack{\text{Months of service credits the System determines has been credited to the Retirant from} \\ \text{_____ (date of marriage)} \\ \text{through _____ (date of divorce)}}}{\substack{\text{Total months of service credit the System determines has been credited to the Retirant upon retirement}}}$$

☐ **B.** A percentage determined by the following formula:

$$\underline{\quad\quad\quad}\% \text{ (fractional marital property interest)} \times \frac{\text{Months of service credits the System determines has been credited to the Retirant from } \underline{\quad\quad\quad} \text{ (date) through } \underline{\quad\quad\quad} \text{ (date)}}{\text{Total months of service credit the System determines has been credited to the Retirant upon retirement}}$$

☐ **C.** A percentage determined by the following formula:

$$\underline{\quad\quad\quad}\% \text{ (fractional marital property interest)} \times \frac{\underline{\quad\quad\quad} \text{ (number) of months of service credits, or the total months of service credits the System determines has been credited to the Retirant, whichever is less}}{\text{Total months of service credit the System determines has been credited to the Retirant upon retirement}}$$

☐ **D.** _____ (numerical percentage) %.

☐ **E.** $_____._____ (numerical dollar amount), or the total distribution payable to the Retirant, whichever is less.

☐ **F.** None.

Payments to the Alternate Payee, subject to Paragraphs 7, 8 and 9 below, shall commence as of the first day of the month following the date upon which the Order is determined to be a HiDRO. Payments to the Alternate Payee, subject to Paragraphs 7, 8 and 9 below, shall terminate upon the death of the Retirant, or upon the death of the Alternate Payee, whichever is earlier.

7. When the System receives a certified copy of this Order subsequent to the Retirant's retirement, and if this Order is determined to be a HiDRO, the portion awarded to the Alternate Payee by the Order shall be paid as a portion of the retirement benefit the Retirant is receiving pursuant to HRS §§ 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 and/or 88-336 as follows:

A. If the Alternate Payee is already a named beneficiary under any option elected by the Retirant at retirement, the benefit to which the Retirant is entitled, without regard to the Order, shall be apportioned between the Retirant and the Alternate Payee according to the terms of the Order. Upon the death of the Retirant or the Alternate Payee, the benefit amount to be paid to the survivor shall be the amount

required under the option elected by the Retirant at retirement, as though this Order had not existed; or

B. If the Alternate Payee is not a named beneficiary under the option elected by the Retirant at retirement, the benefit to which the Retirant is entitled without regard to the Order, shall be apportioned between the Retirant and the Alternate Payee according to the terms of the Order. If the Retirant predeceases the Alternate Payee, payments to the Alternate Payee shall cease and payments to the Retirant's named beneficiary or beneficiaries shall be made as required under the option elected by the Retirant at retirement, as though this Order had not existed. If the Alternate Payee predeceases the Retirant, the benefit then being paid to the Retirant shall be increased by the amount of the benefit that was being paid to the Alternate Payee at time of death.

8. When the System has not yet begun to make payment to the Alternate Payee under this Order and is provided with proof of the death of the Alternate Payee, benefits payable with respect to the Retiree shall be paid without regard to this Order.

9. If the Retirant returns to employment requiring active membership in the System:

A. Payments to the Alternate Payee pursuant to the Order shall not be suspended; and

B. The System shall pay to the Alternate Payee no portion of any benefits payable to the Retirant that result from the resumption of membership, even if those benefits result in part from reinstatement of service credit initially credited during marriage.

10. Any amount payable by the ERS, other than those payable to the Alternate Payee under Paragraph 6 above, shall be payable directly to the Retirant, the Retirant’s beneficiaries, or the estate, heirs, or legatees of either, in accordance with the System’s laws and rules. If the Retirant, or the beneficiary or estate of either, receives the amount of any distribution that has been awarded to the Alternate Payee, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the person to whom the amount should have been paid. If the Alternate Payee, or the estate, heirs, or legatees of the Alternate Payee receive any amount of a distribution that has not been awarded to the Alternate Payee, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the Retirant or other person to whom the amount should have been paid. If the Retirant, Retirant’s beneficiary, Alternate Payee, or their estate, heirs, or legatees, receives any amount that should not have been paid by the System, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the System.

11. The Alternate Payee is ordered to report any payments received from the System on any applicable income tax return in accordance with the Internal Revenue Code provisions or regulations in effect at the time any payments are issued by the ERS. The System is authorized to

issue a Form 1099R, or other applicable form on any direct payment made to the Alternate Payee.

12. The Alternate Payee is ordered to provide the System with prompt notification of any changes in the Alternate Payee's direct deposit and mailing address. The System shall not be liable for failing to make payments to the Alternate Payee if the System does not have current direct deposit information for the Alternate Payee at the time of payment. Nor is the System liable for the non-receipt of a Form 1099R if the ERS does not have current mailing address information at the time of issue.

13. The Retirant or the Alternate Payee shall furnish an original certified copy of this Order to the ERS. The Order is not a qualified HiDRO until an original copy is received by the ERS and is thereafter so deemed pursuant to HRS § 88-93.5, as revised, and HAR § 6-40-1, et seq.

14. This Order shall not be interpreted in any way to:

A. Require the designation by the Retirant of a particular person as the recipient of benefits upon the death of the Retirant;

B. Require the selection of a particular benefit payment plan or option or to limit the benefit payment plans or options from which the Retirant may select;

C. Require any action on the part of the System contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to the Alternate Payee;

D. Award the Alternate Payee an interest that is contingent on any condition other than those conditions resulting in the liability of the System for payment under its plan provisions;

E. Give to someone other than the Retirant the right to designate a beneficiary or to choose any retirement plan or option available from the System;

F. Attach a lien to any part of amounts payable with respect to the Retirant;

G. Require the System to make a lump sum payment of the awarded portion of the benefits to the Alternate Payee that are not otherwise payable in a lump sum;

H. Require the System to terminate the Retirant from membership or employment, to refund contributions, or to retire the Retirant;

I. Provide any type or form of benefit, or any option, not otherwise provided by the System;

J. Provide increased benefits, determined on the basis of actuarial value; or

K. Require the System to provide benefits or refunds to the Alternate Payee that are required to be paid to other alternate payees pursuant to earlier HiDROs.

15. This Court does not have jurisdiction over the System with respect to this divorce action, and the System shall not and has not been made a party to this divorce action and any other judicial proceeding herein. A determination by the System that this Order is not a HiDRO shall be subject to review as provided in HRS chapter 91, and the System's rules relating to contested cases. Any party to this divorce action who attempts to make the System a party to this divorce action shall be liable to the System for the System's costs and attorneys' fees, including attorneys' fees and costs for obtaining a dismissal.

16. The Court retains jurisdiction to amend this Order so that it will constitute a qualified HiDRO under the System's governing laws and rules even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If the System determines at any time that changes in the law, the administration of the System, or any other circumstances make it impossible to calculate the portion of a distribution awarded to the Alternate Payee by this Order and so notifies the parties, either or both parties shall immediately petition the Court for reformation of the Order.

DATED: _____ (city), Hawai'i, _____, 20_____.

_____
Judge _____

APPROVED AS TO FORM AND CONTENT:

X_____
Signature of Plaintiff
Print name: _____
Date: _____

APPROVED AS TO FORM AND CONTENT:

X_____
Signature of Defendant
Print name: _____
Date: _____

APPROVED AS TO FORM:

X_____
Signature of Attorney for Plaintiff
Print name: _____
Date: _____

APPROVED AS TO FORM:

X_____
Signature of Attorney for Defendant
Print name: _____
Date: _____

_____ (Plaintiff) v. _____ (Defendant), FC-D No. _____, Family Court, _____ Circuit, State of Hawai'i; **HAWAII DOMESTIC RELATIONS ORDER FOR THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII (POST-RETIREMENT)**

INSTRUCTIONS FOR HAWAII DOMESTIC RELATIONS ORDER
FOR THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII
(POST-RETIREMENT FORM ERS-301 ONLY)

These instructions are for the completion of a Hawaii Domestic Relations Order (HiDRO) for the Employees' Retirement System of the State of Hawaii (ERS), and are specific to a post-retirement order to be filed and qualified after the retirement of a member or former member with vested status (member). If the member is not retired, a pre-retirement form should be used. A Divorce Decree or Complaint for Divorce **cannot** be used in place of this form.

A Hawaii Domestic Relations Order allows the ERS to directly pay all or a portion of a retiree's monthly retirement payment to an alternate payee, such as a spouse or former spouse. To be valid, this form must be signed and filed, or domesticated, by a State of Hawaii Court, and then qualified by the ERS. A completed Request for Review (form ERS-302), and fee of $300 (check made payable to the Employees' Retirement System of the State of Hawaii) must also accompany this form before it is reviewed for qualification by ERS.

General information about the ERS plan and options for members and retirees is available at the ERS website (ers.ehawaii.gov). If more information about a specific retiree's account is needed prior to filing a HiDRO form, submit a Request for Information (form ERS-303, found at https://ers.ehawaii.gov/hidro). While the ERS can provide information about the plan, benefits and procedures, it cannot provide you with legal advice. Information provided should not be relied on as a determination of any legal issues under state law. You should consult an attorney to protect your interest in ERS benefits and determine your statutory rights under state law.

Please ensure that the current version of the HiDRO model form (ERS-300 or ERS-301) is being used to prevent rejection of your submission. The ERS will reject the submission of a prior version of the HiDRO model form if submitted more than 9 months after the date a superseding (current) HiDRO model form has been approved by the ERS Board of Trustees. The current forms are posted at https://ers.ehawaii.gov/hidro.

Read and fill out the form completely to avoid any unnecessary fees.

INSTRUCTIONS (by the paragraph number on the form)

Caption (the top half of page 1). Enter the name, address and telephone number of the party preparing the document. Enter the name of the court, names of parties, case number, and name of judge.

Paragraph numbers:

1. Enter the date the Divorce Decree was filed by the court. If there is any post decree order or stipulation, enter a checkmark in the box, enter the name of post decree order or stipulation, and enter the date the post decree order or stipulation was filed by the court.

3. Enter the name and information of the retirant (retiree), and checkmark whether the retiree is the plaintiff or defendant in the Divorce Decree.

4. Enter the name and information of the alternate payee, and checkmark whether the alternate payee is the plaintiff or defendant in the Divorce Decree.

5. Enter the date of marriage (month, day, year).

6. Applies to the retiree's **monthly retirement payment**. **Choose only one (A, B, C, D, E or F)**:
   - **Checkmark A** if the portion paid to the alternate payee is to be determined by the formula using the retiree's service credits from the date of marriage to date of divorce. In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the dates of marriage and divorce. The bottom right of the formula will be the retiree's total service credits at the time of retirement as determined by the ERS.

- **Checkmark B** if the portion paid to the alternate payee is to be determined by the formula using the retiree's service credits from a designated start date to a designated end date (other than the dates of marriage and divorce). In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the start and end dates. The bottom right of the formula will be the retiree's total service credits at the time of retirement as determined by the ERS.
- **Checkmark C** if the portion paid to the alternate payee is to be determined by the formula using a designated number of the retiree's service credits (other than service credits from the dates of marriage to divorce, or designated start and end dates), not to exceed the total months of service credits the System determines has been credited to the retirant. In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the number of service credits (in months). The bottom right of the formula will be the retiree's total service credits at the time of retirement as determined by the ERS.
- **Checkmark D** if the portion to the alternate payee is a designated numerical percentage of the entire monthly pension payment. Enter the numerical percentage.
- **Checkmark E** if the portion to the alternate payee is a designated numerical dollar amount, not to exceed the total distribution payable to the retiree. Enter the numerical dollar amount.
- **Checkmark F** if none of the retiree's pension monthly pension payment will be distributed to the alternate payee.

Numerical percentages should be entered using no more than three decimal digits (e.g., 33.333).

Signatures. The judge's signature must be obtained after completing the form. The court may require that the signatures of the parties and attorneys (if applicable) be obtained. If the HiDRO form is signed and filed by a court other than a State of Hawaii Court, domestication must also be obtained from a Hawaii court.

Footer (the bottom of the last page). Enter the name of the parties, court, and case number.

Submit an original certified copy of the court-filed HiDRO form (and domestication if applicable), a completed Request for Review (form ERS-302, found at https://ers.ehawaii.gov/hidro), and a nonrefundable $300 fee, to the Employees' Retirement System, 201 Merchant Street, Suite 1400, Honolulu, HI 96813, or call us (808-586-1735) for Neighbor Island locations. If submitted by a third-party (such as an attorney) on behalf of a retiree or alternate payee, also submit a letter containing the original signature of the retiree or alternate payee verifying that the third-party is authorized to act on the retiree or alternate payee's behalf. Upon receipt, the ERS will begin review of the court-filed HiDRO form for qualification.

(Rev. 2022-09-13)

ERS-302 (rev. 10-1-2023)

Employees' Retirement System of the State of Hawaii
201 Merchant St, Suite 1400
Honolulu, Hawaii 96813-2980
(808) 586-1735 http://ers.ehawaii.gov/

REQUEST FOR REVIEW OF HAWAII DOMESTIC RELATIONS ORDER OR PROPOSED HAWAII DOMESTIC RELATIONS ORDER

INSTRUCTIONS: This is a form to request review of a Hawaii Domestic Relations Order (HiDRO) Model Form for Pre-Retirement (Form ERS-300) or Post-Retirement (Form ERS-301) to the Employees' Retirement System.
A non-refundable fee of $300 is required for each review. Submit the following to the address stated above:

____ An original certified-copy of a court-entered HiDRO Model Form, or proposed HiDRO Model Form (absent court-entry);
____ This form (completed with an original signature); and
____ Payment of the fee for review ($300) by check, made payable to Employees' Retirement System.
____ For a proposed HiDRO (absent court-entry), if the Requestor is a former/spouse, an original certified copy of the court-filed Complaint for Divorce **OR** an original certified copy of the court-entered Divorce Decree.

SECTION A: REQUESTOR'S INFORMATION

Name of Requestor*:_____

Care of (Requestor's third-party representative, if any)**: _____

Address: _____

Phone Number _____

Court Case Number _____ Date of Court Filing*** _____

ERS Member/Retirant Name: _____ Full SSN: _____ - _____ - _____

Alternate Payee Name: _____ Full SSN: _____ - _____ - _____

Alternate Payee's Date of Birth: _____(month) / _____(day) / _____(year)

* Requests must be made by an ERS member/vested former member/retirant or spouse/former spouse of the preceding.
** Requests submitted by a third-party (such as an attorney) on behalf of a Requestor will not be processed unless the ERS is provided with a letter containing the original signature of the Requestor verifying that the third-party is authorized to act on their behalf.
*** Leave blank if request is for a Proposed HiDRO.

SECTION B: REQUEST REVIEW OF (check one):

_____ **Court-entered HiDRO**: A court-entered HiDRO Model Form may be submitted for review and determination of whether it is or is not qualified as a HiDRO. **Only court-entered HiDRO Model Forms are eligible for determination by the Employees' Retirement System that it is or is not qualified as a HiDRO**.

_____ **Proposed HiDRO**: A proposed HiDRO Model Form (absent court-entry) may be submitted for review and notice of whether it meets the requirements for a HiDRO. **This is an optional review** that does not replace the process to qualify a court-entered HiDRO Model Form. **To obtain a determination of whether a proposed HiDRO Model Form (absent court-entry) is qualified, it first needs to be entered by a court, and then submitted to the ERS for review as a court-entered HiDRO Model Form as referenced above (with a separate fee of $300)**.

SECTION C: PAYMENT SUBMISSION

Enclosed is my payment check, payable to **Employees' Retirement System** in the amount of $300. I understand that this fee is non-refundable, and that my cancelled check will be my receipt of payment.

Requestor's Signature _____ Date _____

Due to compatibility issues, please download the document then fill it out.

ERS-303 (rev. 2-10-2021)

Hawaii Domestic Relations Order (HiDRO) Request for Information

This is a form to request the information relevant to Hawaii Domestic Relations Orders (HiDRO), belonging to members, former members with vested status, and retirants (retiree) of the Employees' Retirement System of the State of Hawaii (ERS). The information provided will be based on the member or retirant's records available as of the date of this Request. This form may be submitted to the Employees' Retirement System, 201 Merchant Street, Suite 1400, Honolulu, HI 96813.

Information provided regarding members:

- Membership start date and termination date, if no longer employed in an ERS member position;
- Membership class(es) and periods of credited service;
- Accumulated contribution account balance (if applicable);
- Compensation history for periods of credited service;
- The most recent estimate of maximum retirement allowance, if any, without disclosure of the designated beneficiary;
- The most recent pending or filed application for retirement or refund of contributions; and
- All previous HiDRO model forms submitted for qualification or qualified.

Information provided regarding retirants:

- Retirement date(s);
- Membership class(es) and periods of credited service;
- Average Final Compensation;
- Retirement allowance payment option elected, without disclosure of the designated of beneficiary;
- Whether the Requestor has been designated as beneficiary;
- Current monthly pension (estimated or finalized);
- Refund received by the Retirant, if any **(refunds previously paid are not subject to a HiDRO)**; and
- All previous HiDRO model forms submitted for qualification or qualified.

Requestor's Name: Requests must be made by an ERS member/former member with vested status/retirant, or their spouse/ex-spouse.	
Care of (Requestor's third-party representative, if any)**:**	
Requestor's Address:	
Requestor's E-Mail Address:	**Requestor's Telephone:**
If the Requestor is represented by a third-party (such as an attorney), have you attached a letter signed by the Requestor authorizing the third-party to act on the Requestor's behalf? ☐ **Yes** ☐ **No** Requests submitted by a third-party on behalf of an ERS member/former member with vested status/retirant or their spouse/ex-spouse, will not be processed unless the ERS is provided with a letter containing the original signature of the Requestor verifying that the third party is authorized to act on their behalf.	
Member/Retirant Name:	
Member/Retirant Date of Birth:	**Member/Retirant Social Security Number:**
Date of Marriage:	**Date of Complaint for Divorce/Divorce Decree:**
If the Requestor is not an ERS member/former member with vested status/retirant, have you attached a certified copy of the Complaint for Divorce or Divorce Decree? ☐ **Yes** ☐ **No** Requests submitted by or on behalf of persons other than an ERS member/former member with vested status/retirant, will not be processed unless the ERS is provided with an original certified copy of the court-filed complaint for divorce or divorce decree.	
Signature:	**Date:**