

CHAPTER 129

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 98-114

BY SENATOR Wells;
also REPRESENTATIVES Kaufman and Reeser.

AN ACT

CONCERNING THE FORMULAE BY WHICH PUBLIC EMPLOYEE RETIREMENT BENEFITS MAY BE DIVIDED PURSUANT TO A COURT-APPROVED AGREEMENT ENTERED INTO BETWEEN PARTIES TO A DOMESTIC RELATIONS ACTION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 14-10-113 (6) (c) (I) and (6) (c) (II) (C), Colorado Revised Statutes, are amended, and the said 14-10-113 (6) (c) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

14-10-113. Disposition of property. (6) (c) (I) The parties may enter into a marital agreement pursuant to part 3 of article 2 of this title or a separation agreement pursuant to section 14-10-112 concerning the division of a public employee retirement benefit between the parties pursuant to a written agreement. THE PARTIES SHALL SUBMIT SUCH WRITTEN AGREEMENT TO THE PLAN ADMINISTRATOR AT THE TIME OF THE DISSOLUTION OF MARRIAGE, LEGAL SEPARATION, OR DECLARATION OF INVALIDITY OF MARRIAGE.

(II) A written agreement dividing a public employee retirement benefit shall:

(C) For an agreement concerning a defined benefit plan, specify the ~~alternate payee distribution as a fixed monetary amount,~~ METHOD, AS DESCRIBED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (c), subject, if the plan permits, to benefit adjustments payable at the same time and in the same manner as any benefit adjustments applied to the participant's distribution. ~~or as a percentage of the payment to the member or retiree.~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(III) THE WRITTEN AGREEMENT BETWEEN THE PARTIES DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c) SHALL CONTAIN ONLY ONE METHOD OR FORMULA TO BE APPLIED TO DIVIDE THE DEFINED BENEFIT PLAN. FOR PURPOSES OF SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (c), THE PARTIES MAY SELECT ANY ONE OF THE FOLLOWING METHODS BY WHICH TO DIVIDE THE DEFINED BENEFIT PLAN:

(A) A FIXED MONETARY AMOUNT;

(B) A FIXED PERCENTAGE OF THE PAYMENT TO THE PARTICIPANT;

(C) THE TIME-RULE FORMULA DETERMINED BY DIVIDING THE NUMBER OF MONTHS OF SERVICE CREDIT ACQUIRED UNDER THE PLAN DURING THE MARRIAGE AS SET FORTH IN THE COURT'S ORDER BY THE NUMBER OF MONTHS OF SERVICE CREDIT IN SUCH PLAN AT THE TIME OF THE PARTICIPANT'S RETIREMENT AS DETERMINED BY THE PLAN, WHICH QUOTIENT SHALL BE MULTIPLIED BY A PERCENTAGE SPECIFIED IN THE COURT'S ORDER, AND THE PRODUCT THEREOF SHALL BE FURTHER MULTIPLIED BY THE AMOUNT OF THE PAYMENT TO THE PARTICIPANT AT THE DATE OF RETIREMENT;

(D) A FORMULA DETERMINED BY DIVIDING THE NUMBER OF MONTHS OF SERVICE CREDIT ACQUIRED UNDER THE PLAN DURING THE MARRIAGE AS SET FORTH IN THE COURT'S ORDER BY THE NUMBER OF MONTHS OF SERVICE CREDIT IN SUCH PLAN AS OF THE DATE OF THE DECREE AS DETERMINED BY THE PLAN, REGARDLESS OF WHEN THE PARTICIPANT IS EXPECTED TO RETIRE, WHICH QUOTIENT SHALL BE MULTIPLIED BY A PERCENTAGE SPECIFIED IN THE COURT'S ORDER, AND THE PRODUCT THEREOF SHALL BE FURTHER MULTIPLIED BY THE AMOUNT OF THE PAYMENT THE PARTICIPANT WOULD BE ENTITLED TO RECEIVE AS IF THE PARTICIPANT WERE TO RETIRE AND RECEIVE AN UNREDUCED BENEFIT ON THE DATE OF THE DECREE; OR

(E) ANY OTHER METHOD OR FORMULA MUTUALLY AGREED UPON BY THE PARTIES THAT SPECIFIES A DOLLAR AMOUNT OR PERCENTAGE PAYABLE TO THE ALTERNATE PAYEE.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 20, 1998