

REFERENCE TITLE: retirement plans; domestic relations orders

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2215

Introduced by
Representative McClure

AN ACT

AMENDING SECTIONS 38-801 AND 38-842, ARIZONA REVISED STATUTES; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 264, SECTION 13 AND CHAPTER 308, SECTION 1; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 264, SECTION 14 AND CHAPTER 308, SECTION 2; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-822; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-860; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-910; RELATING TO SPECIAL RETIREMENT PLANS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-801, Arizona Revised Statutes, is amended to
3 read:
4 38-801. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Accumulated contributions" means the sum of all member
7 contributions deducted from the member's salary pursuant to section 38-810,
8 subsection A plus the amount transferred to the fund on behalf of the member
9 plus the amount deposited in the fund pursuant to section 38-816.
10 2. "ALTERNATE PAYEE" MEANS THE SPOUSE OR FORMER SPOUSE OF A
11 PARTICIPANT AS DESIGNATED IN A DOMESTIC RELATIONS ORDER.
12 3. "ALTERNATE PAYEE'S PORTION" MEANS BENEFITS THAT ARE PAYABLE TO AN
13 ALTERNATE PAYEE PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS ORDER.
14 ~~2-~~ 4. "Average yearly salary" means the result obtained by dividing
15 the total salary paid to an employee during a considered period by the number
16 of years, including fractional years, in which the salary was received. The
17 considered period shall be the three consecutive years within the last ten
18 completed years of credited service which yield the highest average.
19 ~~3-~~ 5. "Credited service" means the number of whole and fractional
20 years of a member's service as an elected official after the elected
21 official's effective date of participation for which member and employer
22 contributions are on deposit with the fund, plus credited service as an
23 elected official transferred to the plan from another retirement system or
24 plan for public employees of this state, plus service as an elected official
25 before the elected official's effective date of participation which is being
26 funded pursuant to a joinder agreement in accordance with section 38-810,
27 subsection C and section 38-815 or which was redeemed pursuant to section
28 38-816.
29 6. "CURE PERIOD" MEANS THE NINETY-DAY PERIOD IN WHICH A PARTICIPANT OR
30 ALTERNATE PAYEE MAY SUBMIT AN AMENDED DOMESTIC RELATIONS ORDER AND REQUEST A
31 DETERMINATION, CALCULATED FROM THE TIME THE PLAN ISSUES A DETERMINATION
32 FINDING THAT A PREVIOUSLY SUBMITTED DOMESTIC RELATIONS ORDER DID NOT QUALIFY
33 AS A PLAN APPROVED DOMESTIC RELATIONS ORDER.
34 7. "DETERMINATION" MEANS A WRITTEN DOCUMENT THAT INDICATES TO A
35 PARTICIPANT AND ALTERNATE PAYEE WHETHER A DOMESTIC RELATIONS ORDER QUALIFIES
36 AS A PLAN APPROVED DOMESTIC RELATIONS ORDER.
37 8. "DETERMINATION PERIOD" MEANS THE NINETY-DAY PERIOD IN WHICH THE
38 PLAN MUST REVIEW A DOMESTIC RELATIONS ORDER THAT IS SUBMITTED BY A
39 PARTICIPANT OR ALTERNATE PAYEE TO DETERMINE WHETHER THE DOMESTIC RELATIONS
40 ORDER QUALIFIES AS A PLAN APPROVED DOMESTIC RELATIONS ORDER, CALCULATED FROM
41 THE TIME THE PLAN MAILES A NOTICE OF RECEIPT TO THE PARTICIPANT AND ALTERNATE
42 PAYEE.
43 9. "DOMESTIC RELATIONS ORDER" MEANS AN ORDER OF A COURT OF THIS STATE
44 THAT IS MADE PURSUANT TO THE DOMESTIC RELATIONS LAWS OF THIS STATE AND THAT
45 CREATES OR RECOGNIZES THE EXISTENCE OF AN ALTERNATE PAYEE'S RIGHT TO, OR

1 ASSIGNS TO AN ALTERNATE PAYEE THE RIGHT TO, RECEIVE A PORTION OF THE BENEFITS
2 PAYABLE TO A PARTICIPANT.

3 ~~4-~~ 10. "Effective date of participation" means August 7, 1985, except
4 with respect to employers and their elected officials whose contributions to
5 the plan commence after that date, in which case the effective date of their
6 participation in the plan is specified in the applicable joinder agreement.

7 ~~5-~~ 11. "Elected official" means:

8 (a) Every elected official of this state.

9 (b) Every elected official of each county of this state.

10 (c) Every justice of the supreme court, every judge of the court of
11 appeals, every judge of the superior court and every full-time superior court
12 commissioner, except full-time superior court commissioners who failed to
13 make a timely election of membership under the judges' retirement plan,
14 repealed on August 7, 1985.

15 (d) The administrator of the fund manager if the administrator is a
16 natural person.

17 (e) Each elected official of an incorporated city or town whose
18 employer has executed a proper joinder agreement for coverage of its elected
19 officials.

20 ~~6-~~ 12. "Fund" means the elected officials' retirement plan fund.

21 ~~7-~~ 13. "Fund manager" means the fund manager of the system.

22 14. "NOTICE OF RECEIPT" MEANS A WRITTEN DOCUMENT THAT IS ISSUED BY THE
23 PLAN TO A PARTICIPANT AND ALTERNATE PAYEE AND THAT STATES THAT THE PLAN HAS
24 RECEIVED A DOMESTIC RELATIONS ORDER AND A REQUEST FOR A DETERMINATION THAT
25 THE DOMESTIC RELATIONS ORDER IS A PLAN APPROVED DOMESTIC RELATIONS ORDER.

26 15. "PARTICIPANT" MEANS A MEMBER WHO IS SUBJECT TO A DOMESTIC
27 RELATIONS ORDER.

28 16. "PARTICIPANT'S PORTION" MEANS BENEFITS THAT ARE PAYABLE TO A
29 PARTICIPANT PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS ORDER.

30 ~~8-~~ 17. "Pension" means a series of monthly payments to a person who
31 is entitled to receive benefits under the plan.

32 18. "PERSONAL REPRESENTATIVE" MEANS THE PERSONAL REPRESENTATIVE OF A
33 DECEASED ALTERNATE PAYEE.

34 ~~9-~~ 19. "Plan" means the elected officials' retirement plan.

35 20. "PLAN APPROVED DOMESTIC RELATIONS ORDER" MEANS A DOMESTIC RELATIONS
36 ORDER THAT THE PLAN APPROVES AS MEETING ALL THE REQUIREMENTS FOR A PLAN
37 APPROVED DOMESTIC RELATIONS ORDER AS OTHERWISE PRESCRIBED IN THIS ARTICLE.

38 ~~10-~~ 21. "Retired member" means a person who is being paid a pension
39 based on the person's credited service as a member of the plan.

40 22. "SEGREGATED FUNDS" MEANS THE AMOUNT OF BENEFITS THAT WOULD
41 CURRENTLY BE PAYABLE TO AN ALTERNATE PAYEE PURSUANT TO A DOMESTIC RELATIONS
42 ORDER UNDER REVIEW BY THE PLAN, OR A DOMESTIC RELATIONS ORDER SUBMITTED TO
43 THE PLAN THAT FAILED TO QUALIFY AS A PLAN APPROVED QUALIFIED DOMESTIC
44 RELATIONS ORDER, IF THE DOMESTIC RELATIONS ORDER WERE DETERMINED TO BE A PLAN
45 APPROVED QUALIFIED DOMESTIC RELATIONS ORDER.

1 ~~11.~~ 23. "System" means the public safety personnel retirement system.
2 Sec. 2. Title 38, chapter 5, article 3, Arizona Revised Statutes, is
3 amended by adding section 38-822, to read:
4 38-822. Domestic relations orders; procedures; payments
5 A. NOTWITHSTANDING ANY OTHER LAW, IN A JUDICIAL PROCEEDING FOR
6 ANNULMENT, DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION THAT PROVIDES FOR THE
7 DISTRIBUTION OF COMMUNITY PROPERTY, OR IN ANY JUDICIAL PROCEEDING TO AMEND OR
8 ENFORCE SUCH A PROPERTY DISTRIBUTION, A COURT IN THIS STATE MAY ISSUE A
9 DOMESTIC RELATIONS ORDER THAT PROVIDES THAT ALL OR ANY PART OF A
10 PARTICIPANT'S BENEFIT OR REFUND IN THE PLAN THAT WOULD OTHERWISE BE PAYABLE
11 TO THAT PARTICIPANT SHALL INSTEAD BE PAID BY THE PLAN TO AN ALTERNATE PAYEE.
12 B. A DOMESTIC RELATIONS ORDER IS NOT EFFECTIVE AGAINST THE PLAN UNLESS
13 THE DOMESTIC RELATIONS ORDER IS APPROVED BY THE PLAN AND QUALIFIES AS A PLAN
14 APPROVED DOMESTIC RELATIONS ORDER. TO QUALIFY AS A PLAN APPROVED DOMESTIC
15 RELATIONS ORDER, A DOMESTIC RELATIONS ORDER SHALL COMPLY WITH ANY POLICIES OR
16 PROCEDURES ADOPTED PURSUANT TO SUBSECTION K AND SHALL ALSO MEET ALL OF THE
17 FOLLOWING REQUIREMENTS:
18 1. THE DOMESTIC RELATIONS ORDER SHALL STATE THE NAME AND THE LAST
19 KNOWN MAILING ADDRESS OF THE PARTICIPANT AND THE NAME AND LAST KNOWN MAILING
20 ADDRESS OF THE ALTERNATE PAYEE THAT IS COVERED BY THE DOMESTIC RELATIONS
21 ORDER.
22 2. THE DOMESTIC RELATIONS ORDER SHALL CLEARLY STATE THE AMOUNT OR
23 PERCENTAGE OF THE PARTICIPANT'S BENEFITS THAT IS PAYABLE BY THE PLAN TO THE
24 ALTERNATE PAYEE OR THE PRECISE MANNER IN WHICH THE AMOUNT OR PERCENTAGE IS TO
25 BE DETERMINED.
26 3. THE DOMESTIC RELATIONS ORDER SHALL STATE THE NUMBER OF PAYMENTS OR
27 PERIODS TO WHICH THE DOMESTIC RELATIONS ORDER APPLIES, IF APPLICABLE.
28 4. THE DOMESTIC RELATIONS ORDER SHALL STATE THAT THE DOMESTIC
29 RELATIONS ORDER APPLIES TO THE PLAN.
30 5. THE DOMESTIC RELATIONS ORDER SHALL NOT REQUIRE THE PLAN TO PROVIDE
31 ANY TYPE OR FORM OF BENEFIT OR ANY OPTION NOT OTHERWISE PROVIDED BY THIS
32 ARTICLE.
33 6. THE DOMESTIC RELATIONS ORDER SHALL NOT REQUIRE THE PLAN TO PROVIDE
34 INCREASED BENEFITS DETERMINED ON THE BASIS OF ACTUARIAL VALUE.
35 7. THE DOMESTIC RELATIONS ORDER SHALL NOT REQUIRE THE PAYMENT OF
36 BENEFITS TO AN ALTERNATE PAYEE IF THE BENEFITS ARE REQUIRED TO BE PAID TO
37 ANOTHER ALTERNATE PAYEE UNDER A SEPARATE PLAN APPROVED DOMESTIC RELATIONS
38 ORDER.
39 C. ON RECEIPT BY THE PLAN OF A CERTIFIED COPY OF A DOMESTIC RELATIONS
40 ORDER AND A WRITTEN REQUEST FOR A DETERMINATION THAT THE DOMESTIC RELATIONS
41 ORDER IS A PLAN APPROVED DOMESTIC RELATIONS ORDER, THE PLAN SHALL PROMPTLY
42 ISSUE A WRITTEN NOTICE OF RECEIPT STATING THAT THE DOMESTIC RELATIONS ORDER
43 AND REQUEST WERE RECEIVED TO THE PARTICIPANT AND ALTERNATE PAYEE AT THE
44 ADDRESSES ON FILE, IF ANY.

1 D. THE PLAN HAS A DETERMINATION PERIOD TO ISSUE A WRITTEN
2 DETERMINATION INDICATING WHETHER A DOMESTIC RELATIONS ORDER QUALIFIES AS A
3 PLAN APPROVED DOMESTIC RELATIONS ORDER. IF THE PARTICIPANT IS RECEIVING
4 BENEFITS DURING THE DETERMINATION PERIOD, AND IF THE PLAN CAN DETERMINE THE
5 AMOUNT OF THE BENEFITS THAT CURRENTLY WOULD BE PAYABLE TO THE ALTERNATE PAYEE
6 IF THE DOMESTIC RELATIONS ORDER WERE A PLAN APPROVED DOMESTIC RELATIONS
7 ORDER, THE PLAN SHALL SEGREGATE THE AMOUNT AND SHALL PAY THE REMAINING
8 PORTION OF THE BENEFITS TO THE PARTICIPANT. IF THE PLAN DETERMINES THE
9 DOMESTIC RELATIONS ORDER IS A PLAN APPROVED DOMESTIC RELATIONS ORDER, THE
10 PLAN SHALL PAY THE PARTICIPANT AND ALTERNATE PAYEE PURSUANT TO THE PLAN
11 APPROVED DOMESTIC RELATIONS ORDER ON THE FIRST DAY OF THE MONTH FOLLOWING THE
12 MONTH IN WHICH THE DETERMINATION WAS ISSUED, OR THE FIRST DAY OF THE MONTH
13 FOLLOWING THE MONTH IN WHICH A BENEFIT IS PAYABLE UNDER THE PLAN APPROVED
14 DOMESTIC RELATIONS ORDER, WHICHEVER IS LATER. IF THE PLAN DETERMINES THE
15 DOMESTIC RELATIONS ORDER FAILS TO QUALIFY AS A PLAN APPROVED DOMESTIC
16 RELATIONS ORDER, THE PLAN SHALL SPECIFY IN ITS DETERMINATION HOW THE DOMESTIC
17 RELATIONS ORDER IS DEFICIENT AND HOW IT MAY BE AMENDED TO QUALIFY AS A PLAN
18 APPROVED DOMESTIC RELATIONS ORDER. IF THE PARTICIPANT IS CURRENTLY RECEIVING
19 BENEFITS, AND IF THE PLAN CAN DETERMINE THE AMOUNT OF SEGREGATED FUNDS THAT
20 WOULD BE PAYABLE TO THE ALTERNATE PAYEE IF THE DOMESTIC RELATIONS ORDER WERE
21 A PLAN APPROVED DOMESTIC RELATIONS ORDER, THE PLAN SHALL HOLD THE SEGREGATED
22 FUNDS DURING THE CURE PERIOD TO ALLOW THE PARTIES TO SUBMIT A CERTIFIED COPY
23 OF AN AMENDED DOMESTIC RELATIONS ORDER AND A WRITTEN REQUEST FOR A
24 DETERMINATION THAT THE AMENDED DOMESTIC RELATIONS ORDER IS A PLAN APPROVED
25 DOMESTIC RELATIONS ORDER. DURING THE CURE PERIOD, THE PLAN SHALL PAY THE
26 PARTICIPANT'S PORTION TO THE PARTICIPANT. AT THE END OF THE CURE PERIOD, IF
27 THE ISSUE OF WHETHER AN AMENDED DOMESTIC RELATIONS ORDER QUALIFIES AS A PLAN
28 APPROVED DOMESTIC RELATIONS ORDER REMAINS UNDETERMINED OR IF AN AMENDED
29 DOMESTIC RELATIONS ORDER IS DETERMINED NOT TO BE A PLAN APPROVED DOMESTIC
30 RELATIONS ORDER, THE PLAN SHALL PAY THE SEGREGATED FUNDS AND THE
31 PARTICIPANT'S PORTION TO THE PARTICIPANT. THE PARTICIPANT SHALL HOLD THE
32 SEGREGATED FUNDS IN TRUST FOR THE ALTERNATE PAYEE AS PROVIDED IN
33 SUBSECTION J. IF AN AMENDED DOMESTIC RELATIONS ORDER THAT IS SUBMITTED AFTER
34 THE EXPIRATION OF THE CURE PERIOD IS DETERMINED TO BE A PLAN APPROVED
35 DOMESTIC RELATIONS ORDER, THE PLAN SHALL MAKE PAYMENTS TO AN ALTERNATE PAYEE
36 UNDER THE PLAN APPROVED DOMESTIC RELATIONS ORDER ONLY PROSPECTIVELY. A
37 DETERMINATION BY THE PLAN THAT A DOMESTIC RELATIONS ORDER IS NOT A PLAN
38 APPROVED DOMESTIC RELATIONS ORDER DOES NOT PROHIBIT A PARTICIPANT OR
39 ALTERNATE PAYEE FROM SUBMITTING AN AMENDED DOMESTIC RELATIONS ORDER TO THE
40 PLAN.

41 E. EACH PARTICIPANT AND ALTERNATE PAYEE IS RESPONSIBLE FOR MAINTAINING
42 A CURRENT MAILING ADDRESS ON FILE WITH THE PLAN. THE PLAN HAS NO DUTY TO
43 ATTEMPT TO LOCATE ANY PARTICIPANT OR ALTERNATE PAYEE. THE PLAN HAS NO DUTY
44 TO PROVIDE A NOTICE OF RECEIPT OR DETERMINATION OR PAY BENEFITS BY MEANS
45 OTHER THAN MAILING THE NOTICE OR PAYMENTS TO THE PARTICIPANT OR ALTERNATE

1 PAYEE AT THE LAST KNOWN ADDRESS THAT IS ON FILE WITH THE PLAN. IF THE
2 ADDRESS OF AN ALTERNATE PAYEE IS UNKNOWN TO THE PLAN, BUT BENEFITS ARE
3 PAYABLE TO THE ALTERNATE PAYEE PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS
4 ORDER, THE PLAN SHALL EITHER:

5 1. HOLD THE ALTERNATE PAYEE'S PORTION UNTIL SUCH A TIME AS THE
6 ALTERNATE PAYEE PROVIDES THE PLAN WITH A CURRENT ADDRESS.

7 2. PAY THE ALTERNATE PAYEE'S PORTION TO THE PARTICIPANT, WHO SHALL
8 HOLD THE ALTERNATE PAYEE'S PORTION IN TRUST AS PROVIDED IN SUBSECTION J,
9 UNTIL SUCH A TIME AS THE ALTERNATE PAYEE IS LOCATED. AT THAT TIME THE
10 PARTICIPANT SHALL PAY THE ALTERNATE PAYEE'S PORTION DIRECTLY TO THE ALTERNATE
11 PAYEE.

12 F. ONCE THE PLAN IS NOTIFIED OF THE ALTERNATE PAYEE'S CURRENT ADDRESS,
13 THE PLAN SHALL PROSPECTIVELY PAY THE ALTERNATE PAYEE'S PORTION TO THE
14 ALTERNATE PAYEE. IF THE ADDRESS OF A PARTICIPANT IS UNKNOWN TO THE PLAN, BUT
15 BENEFITS ARE PAYABLE TO THE PARTICIPANT PURSUANT TO A PLAN APPROVED DOMESTIC
16 RELATIONS ORDER, THE PLAN SHALL HOLD THE PARTICIPANT'S PORTION UNTIL THE
17 PARTICIPANT PROVIDES THE PLAN WITH A CURRENT ADDRESS.

18 G. IF THE ALTERNATE PAYEE IDENTIFIED IN A PLAN APPROVED DOMESTIC
19 RELATIONS ORDER PREDECEASES THE PARTICIPANT AND THE PLAN APPROVED DOMESTIC
20 RELATIONS ORDER DOES NOT OTHERWISE PROVIDE FOR THE DISPOSITION OF THE
21 ALTERNATE PAYEE'S INTEREST THE PLAN SHALL PAY THE ALTERNATE PAYEE'S PORTION
22 TO THE PERSONAL REPRESENTATIVE OF THE DECEASED ALTERNATE PAYEE PURSUANT TO
23 THIS SUBSECTION. THE PLAN IS NOT RESPONSIBLE FOR MAKING BENEFIT PAYMENTS TO
24 A PERSONAL REPRESENTATIVE UNTIL THE PERSONAL REPRESENTATIVE HAS:

25 1. PERSUADED THE PLAN THAT THE PERSONAL REPRESENTATIVE IS AUTHORIZED
26 TO RECEIVE PAYMENTS DESIGNATED FOR THE DECEASED ALTERNATE PAYEE.

27 2. PROVIDED THE PLAN WITH AN ADDRESS TO WHICH THE PAYMENTS SHOULD BE
28 SENT. THE PERSONAL REPRESENTATIVE IS RESPONSIBLE FOR MAINTAINING A CURRENT
29 MAILING ADDRESS ON FILE WITH THE PLAN. THE PLAN HAS NO DUTY TO ATTEMPT TO
30 LOCATE ANY PERSONAL REPRESENTATIVE.

31 H. IF, WITHIN THIRTY DAYS AFTER THE DATE THE PLAN VERIFIES AN
32 ALTERNATE PAYEE'S DEATH, A PERSONAL REPRESENTATIVE DOES NOT MAKE DEMAND ON
33 THE PLAN FOR THE ALTERNATE PAYEE'S PORTION, THE PLAN SHALL EITHER:

34 1. HOLD THE ALTERNATE PAYEE'S PORTION UNTIL THE TIME A PERSONAL
35 REPRESENTATIVE MAKES A PROPER DEMAND FOR PAYMENT OF THE ALTERNATE PAYEE'S
36 PORTION.

37 2. REMIT THE ALTERNATE PAYEE'S PORTION TO THE PARTICIPANT, WHO SHALL
38 HOLD THE AMOUNTS IN TRUST FOR THE ESTATE OF THE ALTERNATE PAYEE UNTIL THE
39 PERSONAL REPRESENTATIVE IS IDENTIFIED. AT THAT TIME THE PARTICIPANT SHALL
40 PAY THE ALTERNATE PAYEE'S PORTION PAID BY THE PLAN TO THE PARTICIPANT TO THE
41 PERSONAL REPRESENTATIVE.

42 THEREAFTER, THE PLAN SHALL PROSPECTIVELY PAY THE ALTERNATE PAYEE'S PORTION TO
43 THE PERSONAL REPRESENTATIVE.

44 I. AMOUNTS HELD OR PAID PURSUANT TO THIS SECTION SHALL NOT ACCRUE
45 INTEREST UNLESS OTHERWISE PRESCRIBED BY THIS ARTICLE.

1 J. THE PLAN IS NOT LIABLE TO THE PARTICIPANT, THE ALTERNATE PAYEE, ANY
2 PERSONAL REPRESENTATIVE OF THE ESTATE OF AN ALTERNATE PAYEE OR ANY OTHER
3 PERSON FOR ANY AMOUNT PAID, WITHHELD OR DISBURSED BY THE PLAN PURSUANT TO
4 THIS SECTION. IF ONE OR MORE PAYMENTS ARE MADE BY THE PLAN TO A PERSON NOT
5 OTHERWISE ENTITLED TO RECEIVE THE PAYMENTS, THE RECIPIENT OF THE PAYMENT IS
6 DESIGNATED A CONSTRUCTIVE TRUSTEE FOR THE PAYMENT RECEIVED AND, TOGETHER WITH
7 THE MARITAL COMMUNITY, IF ANY, IS THE SOLE PARTY AGAINST WHOM AN ACTION MAY
8 BE BROUGHT TO RECOVER THE PAYMENT.

9 K. THE PLAN MAY ADOPT POLICIES AND PROCEDURES THAT GOVERN THE
10 IMPLEMENTATION OF THIS SECTION.

11 Sec. 3. Section 38-842, Arizona Revised Statutes, is amended to read:
12 38-842. Definitions

13 In this article, unless the context otherwise requires:

14 1. "Accidental disability" means a physical or mental condition which
15 the local board finds totally and permanently prevents an employee from
16 performing a reasonable range of duties within the employee's job
17 classification and was incurred in the performance of the employee's duty.

18 2. "Accumulated contributions" means, for each member, the sum of the
19 amount of the member's aggregate contributions made to the fund and the
20 amount, if any, attributable to the employee's contributions prior to the
21 member's effective date under another public retirement system, other than
22 the federal social security act, and transferred to the fund minus the
23 benefits paid to or on behalf of the member.

24 3. "Actuarial equivalent" means equality in present value of the
25 aggregate amounts expected to be received under two different forms of
26 payment, based on mortality and interest assumptions adopted by the fund
27 manager. The fund manager may from time to time change the mortality and
28 interest assumptions.

29 4. "ALTERNATE PAYEE" MEANS THE SPOUSE OR FORMER SPOUSE OF A
30 PARTICIPANT AS DESIGNATED IN A DOMESTIC RELATIONS ORDER.

31 5. "ALTERNATE PAYEE'S PORTION" MEANS BENEFITS THAT ARE PAYABLE TO AN
32 ALTERNATE PAYEE PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS ORDER.

33 ~~4.~~ 6. "Average monthly benefit compensation" means the result
34 obtained by dividing the total compensation paid to an employee during a
35 considered period by the number of months, including fractional months, in
36 which such compensation was received. The considered period shall be the
37 three consecutive years within the last twenty completed years of credited
38 service which yield the highest average. In the computation under this
39 paragraph a period of nonpaid or partially paid industrial leave shall be
40 considered based on the compensation the employee would have received in the
41 employee's job classification if the employee was not on industrial leave.

42 ~~5.~~ 7. "Catastrophic disability" means a physical and not a
43 psychological condition that the local board determines prevents the employee
44 from totally and permanently engaging in any gainful employment and that

1 results from a physical injury incurred in the performance of the employee's
2 duty.

3 ~~6-~~ 8. "Certified peace officer" means a peace officer certified by
4 the Arizona peace officers standards and training board.

5 ~~7-~~ 9. "Claimant" means any member or beneficiary who files an
6 application for benefits pursuant to this article.

7 ~~8-~~ 10. "Compensation" means, for the purpose of computing retirement
8 benefits, base salary, overtime pay, shift differential pay and holiday pay
9 paid to an employee by the employer on a regular monthly, semimonthly or
10 biweekly payroll basis and longevity pay paid to an employee at least every
11 six months for which contributions are made to the system pursuant to section
12 38-843, subsection D. Compensation does not include, for the purpose of
13 computing retirement benefits, payment for unused sick leave, payment in lieu
14 of vacation, payment for compensatory time or payment for any fringe
15 benefits. For the purposes of this paragraph, "base salary" means the amount
16 of compensation each employee is regularly paid for personal services
17 rendered to an employer before the addition of any extra monies, including
18 overtime pay, shift differential pay, holiday pay, longevity pay, fringe
19 benefit pay and similar extra payments.

20 ~~9-~~ 11. "Credited service" means the member's total period of service
21 prior to the member's effective date of participation, plus those compensated
22 periods of the member's service thereafter for which the member made
23 contributions to the fund.

24 12. "CURE PERIOD" MEANS THE NINETY-DAY PERIOD IN WHICH A PARTICIPANT OR
25 ALTERNATE PAYEE MAY SUBMIT AN AMENDED DOMESTIC RELATIONS ORDER AND REQUEST A
26 DETERMINATION, CALCULATED FROM THE TIME THE SYSTEM ISSUES A DETERMINATION
27 FINDING THAT A PREVIOUSLY SUBMITTED DOMESTIC RELATIONS ORDER DID NOT QUALIFY
28 AS A PLAN APPROVED DOMESTIC RELATIONS ORDER.

29 ~~10-~~ 13. "Depository" means a bank in which all monies of the system
30 are deposited and held and from which all expenditures for benefits, expenses
31 and investments are disbursed.

32 14. "DETERMINATION" MEANS A WRITTEN DOCUMENT THAT INDICATES TO A
33 PARTICIPANT AND ALTERNATE PAYEE WHETHER A DOMESTIC RELATIONS ORDER QUALIFIES
34 AS A PLAN APPROVED DOMESTIC RELATIONS ORDER.

35 15. "DETERMINATION PERIOD" MEANS THE NINETY-DAY PERIOD IN WHICH THE
36 SYSTEM MUST REVIEW A DOMESTIC RELATIONS ORDER THAT IS SUBMITTED BY A
37 PARTICIPANT OR ALTERNATE PAYEE TO DETERMINE WHETHER THE DOMESTIC RELATIONS
38 ORDER QUALIFIES AS A PLAN APPROVED DOMESTIC RELATIONS ORDER, CALCULATED FROM
39 THE TIME THE SYSTEM MAILES A NOTICE OF RECEIPT TO THE PARTICIPANT AND
40 ALTERNATE PAYEE.

41 16. "DOMESTIC RELATIONS ORDER" MEANS AN ORDER OF A COURT OF THIS STATE
42 THAT IS MADE PURSUANT TO THE DOMESTIC RELATIONS LAWS OF THIS STATE AND THAT
43 CREATES OR RECOGNIZES THE EXISTENCE OF AN ALTERNATE PAYEE'S RIGHT TO, OR
44 ASSIGNS TO AN ALTERNATE PAYEE THE RIGHT TO, RECEIVE A PORTION OF THE BENEFITS
45 PAYABLE TO A PARTICIPANT.

1 ~~11.~~ 17. "Effective date of participation" means July 1, 1968, except
2 with respect to employers and their covered employees whose contributions to
3 the fund commence thereafter, the effective date of their participation in
4 the system is as specified in the applicable joinder agreement.

5 ~~12.~~ 18. "Effective date of vesting" means the date a member's rights
6 to benefits vest pursuant to section 38-844.01.

7 ~~13.~~ 19. "Eligible child" means the unmarried child of a deceased
8 member who is under the age of eighteen or a full-time student who is under
9 the age of twenty-three or under a disability which began before the child
10 attained the age of twenty-three and who remains a dependent of the surviving
11 spouse or guardian.

12 ~~14.~~ 20. "Eligible groups" means only the following who are regularly
13 assigned to hazardous duty:

14 (a) Municipal police officers who are certified peace officers.

15 (b) Municipal fire fighters.

16 (c) Paid full-time fire fighters employed directly by a fire district
17 organized pursuant to section 48-803 or 48-804 with three or more full-time
18 fire fighters, but not including fire fighters employed by a fire district
19 pursuant to a contract with a corporation.

20 (d) State highway patrol officers who are certified peace officers.

21 (e) State fire fighters.

22 (f) County sheriffs and deputies who are certified peace officers.

23 (g) Fish and game wardens who are certified peace officers.

24 (h) Police officers who are certified peace officers and fire fighters
25 of a nonprofit corporation operating a public airport pursuant to sections
26 28-8423 and 28-8424. A police officer shall be designated pursuant to
27 section 28-8426 to aid and supplement state and local law enforcement
28 agencies and a fire fighter's sole duty shall be to perform fire fighting
29 services, including services required by federal regulations.

30 (i) Police officers who are certified peace officers and who are
31 appointed by the Arizona board of regents.

32 (j) Police officers who are certified peace officers and who are
33 appointed by a community college district governing board.

34 (k) State attorney general investigators who are certified peace
35 officers.

36 (l) County attorney investigators who are certified peace officers.

37 (m) Police officers who are certified peace officers and who are
38 employed by an Indian reservation police agency.

39 (n) Fire fighters who are employed by an Indian reservation fire
40 fighting agency.

41 (o) Police officers who are certified peace officers and who are
42 appointed by the department of administration.

43 (p) Department of liquor licenses and control investigators who are
44 certified peace officers.

1 (q) Arizona department of agriculture officers who are certified peace
2 officers.

3 (r) Arizona state parks board rangers and managers who are certified
4 peace officers.

5 (s) County park rangers who are certified peace officers.

6 ~~15-~~ 21. "Employee" means any person who is employed by a participating
7 employer and who is a member of an eligible group but does not include any
8 persons compensated on a contractual or fee basis. If an eligible group
9 requires certified peace officer status and at the option of the local board,
10 employee may include a person who is training to become a certified peace
11 officer.

12 ~~16-~~ 22. "Employers" means:

13 (a) Cities contributing to the fire fighters' relief and pension fund
14 as provided in sections 9-951 through 9-971 or statutes amended thereby and
15 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
16 fire fighters.

17 (b) Cities contributing under the state police pension laws as
18 provided in sections 9-911 through 9-934 or statutes amended thereby and
19 antecedent thereto, as of June 30, 1968 on behalf of their municipal
20 policemen.

21 (c) The state highway patrol covered under the state highway patrol
22 retirement system.

23 (d) The state, or any political subdivision thereof, including but not
24 limited to towns, cities, fire districts, counties and nonprofit corporations
25 operating public airports pursuant to sections 28-8423 and 28-8424, which has
26 elected to participate in the system on behalf of an eligible group of public
27 safety personnel pursuant to a joinder agreement entered into after July 1,
28 1968.

29 (e) Indian tribes which have elected to participate in the system on
30 behalf of an eligible group of public safety personnel pursuant to a joinder
31 agreement entered into after July 1, 1968.

32 ~~17-~~ 23. "Fund" means the public safety personnel retirement fund,
33 which is the fund established to receive and invest contributions accumulated
34 under the system and from which benefits are paid.

35 ~~18-~~ 24. "Fund manager" means the fund manager of the system, who are
36 the persons appointed to invest and operate the fund.

37 ~~19-~~ 25. "Local board" means the retirement board of the employer, who
38 are the persons appointed to administer the system as it applies to their
39 members in the system.

40 ~~20-~~ 26. "Member" means any employee who meets all of the following
41 qualifications:

42 (a) Who is either a full-time paid municipal police officer, a
43 full-time paid fire fighter, a law enforcement officer who is employed by the
44 state including the director thereof, a state fire fighter who is primarily
45 assigned to fire fighting duties, a fire fighter or police officer of a

1 nonprofit corporation operating a public airport pursuant to sections 28-8423
2 and 28-8424, all ranks designated by the Arizona law enforcement merit system
3 council, a state attorney general investigator who is a certified peace
4 officer, a county attorney investigator who is a certified peace officer, a
5 police officer who is appointed by the department of administration and who
6 is a certified peace officer, a department of liquor licenses and control
7 investigator who is a certified peace officer, an Arizona department of
8 agriculture officer who is a certified peace officer, an Arizona state parks
9 board ranger or manager who is a certified peace officer, a county park
10 ranger who is a certified peace officer, a person who is a certified peace
11 officer and who is employed by an Indian reservation police agency, a fire
12 fighter who is employed by an Indian reservation fire fighting agency or an
13 employee included in a group designated as eligible employees under a joinder
14 agreement entered into by their employer after July 1, 1968 and who is or was
15 regularly assigned to hazardous duty.

16 (b) Who, on or after the employee's effective date of participation,
17 is receiving compensation for personal services rendered to an employer or
18 would be receiving compensation except for an authorized leave of absence.

19 (c) Whose employment with an employer commenced prior to attainment of
20 age fifty.

21 (d) Whose customary employment is at least forty hours per week and
22 for more than six months in a calendar year.

23 (e) Who has not attained age sixty-five prior to the employee's
24 effective date of participation or who was over age sixty-five with
25 twenty-five years or more of service prior to the employee's effective date
26 of participation.

27 ~~22-~~ 27. "Normal retirement date" means the first day of the calendar
28 month immediately following an employee's completion of twenty years of
29 service or the employee's sixty-second birthday and the employee's completion
30 of fifteen years of service.

31 28. "NOTICE OF RECEIPT" MEANS A WRITTEN DOCUMENT THAT IS ISSUED BY THE
32 SYSTEM TO A PARTICIPANT AND ALTERNATE PAYEE AND THAT STATES THAT THE SYSTEM
33 HAS RECEIVED A DOMESTIC RELATIONS ORDER AND A REQUEST FOR A DETERMINATION
34 THAT THE DOMESTIC RELATIONS ORDER IS A PLAN APPROVED DOMESTIC RELATIONS
35 ORDER.

36 ~~22-~~ 29. "Ordinary disability" means a physical condition which the
37 local board determines will prevent an employee totally and permanently from
38 performing a reasonable range of duties within the employee's department or a
39 mental condition which the local board determines will prevent an employee
40 totally and permanently from engaging in any substantial gainful activity.

41 30. "PARTICIPANT" MEANS A MEMBER WHO IS SUBJECT TO A DOMESTIC RELATIONS
42 ORDER.

43 31. "PARTICIPANT'S PORTION" MEANS BENEFITS THAT ARE PAYABLE TO A
44 PARTICIPANT PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS ORDER.

1 32. "PERSONAL REPRESENTATIVE" MEANS THE PERSONAL REPRESENTATIVE OF A
2 DECEASED ALTERNATE PAYEE.

3 33. "PLAN APPROVED DOMESTIC RELATIONS ORDER" MEANS A DOMESTIC RELATIONS
4 ORDER THAT THE SYSTEM APPROVES AS MEETING ALL THE REQUIREMENTS FOR A PLAN
5 APPROVED DOMESTIC RELATIONS ORDER AS OTHERWISE PRESCRIBED IN THIS ARTICLE.

6 ~~23.~~ 34. "Pension" means a series of monthly amounts which are payable
7 to a person who is entitled to receive benefits under the plan.

8 ~~24.~~ 35. "Regularly assigned to hazardous duty" means regularly
9 assigned to duties of the type normally expected of municipal police
10 officers, municipal or state fire fighters, eligible fire district fire
11 fighters, state highway patrol officers, county sheriffs and deputies, fish
12 and game wardens, fire fighters and police officers of a nonprofit
13 corporation operating a public airport pursuant to sections 28-8423 and
14 28-8424, police officers who are appointed by the Arizona board of regents or
15 a community college district governing board, state attorney general
16 investigators who are certified peace officers, county attorney investigators
17 who are certified peace officers, police officers who are appointed by the
18 department of administration and who are certified peace officers, department
19 of liquor licenses and control investigators who are certified peace
20 officers, Arizona department of agriculture officers who are certified peace
21 officers, Arizona state parks board rangers and managers who are certified
22 peace officers, county park rangers who are certified peace officers, police
23 officers who are certified peace officers and are employed by an Indian
24 reservation police agency or fire fighters who are employed by an Indian
25 reservation fire fighting agency. Those individuals who are assigned solely
26 to support duties such as secretaries, stenographers, clerical personnel,
27 clerks, cooks, maintenance personnel, mechanics and dispatchers are not
28 assigned to hazardous duty regardless of their position classification
29 title. Since the normal duties of municipal police officers, municipal or
30 state fire fighters, eligible fire district fire fighters, state highway
31 patrol officers, county sheriffs and deputies, fish and game wardens, fire
32 fighters and police officers of a nonprofit corporation operating a public
33 airport pursuant to sections 28-8423 and 28-8424, police officers who are
34 appointed by the Arizona board of regents or a community college district
35 governing board, state attorney general investigators who are certified peace
36 officers, county attorney investigators who are certified peace officers,
37 police officers who are appointed by the department of administration and who
38 are certified peace officers, department of liquor licenses and control
39 investigators who are certified peace officers, Arizona department of
40 agriculture officers who are certified peace officers, Arizona state parks
41 board rangers and managers who are certified peace officers, county park
42 rangers who are certified peace officers, police officers who are certified
43 peace officers and are employed by an Indian reservation police agency and
44 fire fighters who are employed by an Indian reservation fire fighting agency
45 are constantly changing, questions as to whether a person is or was

1 previously regularly assigned to hazardous duty shall be resolved by the
2 local board on a case-by-case basis. Resolutions by local boards are subject
3 to rehearing and appeal.

4 ~~25-~~ 36. "Retirement" means termination of employment after a member
5 has fulfilled all requirements for a pension. Retirement shall be considered
6 as commencing on the first day of the month immediately following a member's
7 last day of employment or authorized leave of absence, if later.

8 37. "SEGREGATED FUNDS" MEANS THE AMOUNT OF BENEFITS THAT WOULD
9 CURRENTLY BE PAYABLE TO AN ALTERNATE PAYEE PURSUANT TO A DOMESTIC RELATIONS
10 ORDER UNDER REVIEW BY THE SYSTEM, OR A DOMESTIC RELATIONS ORDER SUBMITTED TO
11 THE SYSTEM THAT FAILED TO QUALIFY AS A PLAN APPROVED DOMESTIC RELATIONS
12 ORDER, IF THE DOMESTIC RELATIONS ORDER WERE DETERMINED TO BE A PLAN APPROVED
13 DOMESTIC RELATIONS ORDER.

14 ~~26-~~ 38. "Service" means the last period of continuous employment of an
15 employee by the employers prior to the employee's retirement or the
16 employee's sixty-fifth birthday, whichever first occurs, except that if such
17 period includes employment during which the employee would not have qualified
18 as a member had the system then been effective, such as employment as a
19 volunteer fire fighter, then only twenty-five per cent of such noncovered
20 employment shall be considered as service. Any absence which is authorized
21 by an employer shall not be considered as interrupting continuity of
22 employment if the employee returns within the period of authorized absence.
23 Transfers between employers also shall not be considered as interrupting
24 continuity of employment. Any period during which a member is receiving sick
25 leave payments or a temporary disability pension shall be considered as
26 service. Any period during which a person was employed as a full-time paid
27 fire fighter by a fire district pursuant to a contract with a corporation
28 within that fire district shall be considered as service if it is part of the
29 person's last period of continuous employment with that corporation in that
30 fire district and the fire district has elected to treat the period as
31 service in its applicable joinder agreement. Any reference in this system to
32 the number of years of service of an employee shall be deemed to include
33 fractional portions of a year.

34 ~~27-~~ 39. "State" means the state of Arizona, including any department,
35 office, board, commission, agency or other instrumentality of the state.

36 ~~28-~~ 40. "System" means the public safety personnel retirement system
37 established by this article.

38 ~~29-~~ 41. "Temporary disability" means a physical or mental condition
39 which the local board finds totally and temporarily prevents an employee from
40 performing a reasonable range of duties within the employee's department and
41 which was incurred in the performance of the employee's duty.

1 Sec. 4. Title 38, chapter 5, article 4, Arizona Revised Statutes, is
2 amended by adding section 38-860, to read:

3 38-860. Domestic relations orders; procedures; payments

4 A. NOTWITHSTANDING ANY OTHER LAW, IN A JUDICIAL PROCEEDING FOR
5 ANNULMENT, DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION THAT PROVIDES FOR THE
6 DISTRIBUTION OF COMMUNITY PROPERTY, OR IN ANY JUDICIAL PROCEEDING TO AMEND OR
7 ENFORCE SUCH A PROPERTY DISTRIBUTION, A COURT IN THIS STATE MAY ISSUE A
8 DOMESTIC RELATIONS ORDER THAT PROVIDES THAT ALL OR ANY PART OF A
9 PARTICIPANT'S BENEFIT OR REFUND IN THE SYSTEM THAT WOULD OTHERWISE BE PAYABLE
10 TO THAT PARTICIPANT SHALL INSTEAD BE PAID BY THE SYSTEM TO AN ALTERNATE
11 PAYEE.

12 B. A DOMESTIC RELATIONS ORDER IS NOT EFFECTIVE AGAINST THE SYSTEM
13 UNLESS THE DOMESTIC RELATIONS ORDER IS APPROVED BY THE SYSTEM AND QUALIFIES
14 AS A PLAN APPROVED DOMESTIC RELATIONS ORDER. TO QUALIFY AS A PLAN APPROVED
15 DOMESTIC RELATIONS ORDER, A DOMESTIC RELATIONS ORDER SHALL COMPLY WITH ANY
16 POLICIES OR PROCEDURES ADOPTED PURSUANT TO SUBSECTION K AND SHALL ALSO MEET
17 ALL OF THE FOLLOWING REQUIREMENTS:

18 1. THE DOMESTIC RELATIONS ORDER SHALL STATE THE NAME AND THE LAST
19 KNOWN MAILING ADDRESS OF THE PARTICIPANT AND THE NAME AND LAST KNOWN MAILING
20 ADDRESS OF THE ALTERNATE PAYEE THAT IS COVERED BY THE DOMESTIC RELATIONS
21 ORDER.

22 2. THE DOMESTIC RELATIONS ORDER SHALL CLEARLY STATE THE AMOUNT OR
23 PERCENTAGE OF THE PARTICIPANT'S BENEFITS THAT IS PAYABLE BY THE SYSTEM TO THE
24 ALTERNATE PAYEE OR THE PRECISE MANNER IN WHICH THE AMOUNT OR PERCENTAGE IS TO
25 BE DETERMINED.

26 3. THE DOMESTIC RELATIONS ORDER SHALL STATE THE NUMBER OF PAYMENTS OR
27 PERIODS TO WHICH THE DOMESTIC RELATIONS ORDER APPLIES, IF APPLICABLE.

28 4. THE DOMESTIC RELATIONS ORDER SHALL STATE THAT THE DOMESTIC
29 RELATIONS ORDER APPLIES TO THE SYSTEM.

30 5. THE DOMESTIC RELATIONS ORDER SHALL NOT REQUIRE THE SYSTEM TO
31 PROVIDE ANY TYPE OR FORM OF BENEFIT OR ANY OPTION NOT OTHERWISE PROVIDED BY
32 THIS ARTICLE.

33 6. THE DOMESTIC RELATIONS ORDER SHALL NOT REQUIRE THE SYSTEM TO
34 PROVIDE INCREASED BENEFITS DETERMINED ON THE BASIS OF ACTUARIAL VALUE.

35 7. THE DOMESTIC RELATIONS ORDER SHALL NOT REQUIRE THE PAYMENT OF
36 BENEFITS TO AN ALTERNATE PAYEE IF THE BENEFITS ARE REQUIRED TO BE PAID TO
37 ANOTHER ALTERNATE PAYEE UNDER A SEPARATE PLAN APPROVED DOMESTIC RELATIONS
38 ORDER.

39 C. ON RECEIPT BY THE SYSTEM OF A CERTIFIED COPY OF A DOMESTIC
40 RELATIONS ORDER AND A WRITTEN REQUEST FOR A DETERMINATION THAT THE DOMESTIC
41 RELATIONS ORDER IS A PLAN APPROVED DOMESTIC RELATIONS ORDER, THE SYSTEM SHALL
42 PROMPTLY ISSUE A WRITTEN NOTICE OF RECEIPT STATING THAT THE DOMESTIC
43 RELATIONS ORDER AND REQUEST WERE RECEIVED TO THE PARTICIPANT AND ALTERNATE
44 PAYEE AT THE ADDRESSES ON FILE, IF ANY.

1 D. THE SYSTEM HAS A DETERMINATION PERIOD TO ISSUE A WRITTEN
2 DETERMINATION INDICATING WHETHER A DOMESTIC RELATIONS ORDER QUALIFIES AS A
3 PLAN APPROVED DOMESTIC RELATIONS ORDER. IF THE PARTICIPANT IS RECEIVING
4 BENEFITS DURING THE DETERMINATION PERIOD, AND IF THE SYSTEM CAN DETERMINE THE
5 AMOUNT OF THE BENEFITS THAT CURRENTLY WOULD BE PAYABLE TO THE ALTERNATE PAYEE
6 IF THE DOMESTIC RELATIONS ORDER WERE A PLAN APPROVED DOMESTIC RELATIONS
7 ORDER, THE SYSTEM SHALL SEGREGATE THE AMOUNT AND SHALL PAY THE REMAINING
8 PORTION OF THE BENEFITS TO THE PARTICIPANT. IF THE SYSTEM DETERMINES THE
9 DOMESTIC RELATIONS ORDER IS A PLAN APPROVED DOMESTIC RELATIONS ORDER, THE
10 SYSTEM SHALL PAY THE PARTICIPANT AND ALTERNATE PAYEE PURSUANT TO THE PLAN
11 APPROVED DOMESTIC RELATIONS ORDER ON THE FIRST DAY OF THE MONTH FOLLOWING THE
12 MONTH IN WHICH THE DETERMINATION WAS ISSUED, OR THE FIRST DAY OF THE MONTH
13 FOLLOWING THE MONTH IN WHICH A BENEFIT IS PAYABLE UNDER THE PLAN APPROVED
14 DOMESTIC RELATIONS ORDER, WHICHEVER IS LATER. IF THE SYSTEM DETERMINES THE
15 DOMESTIC RELATIONS ORDER FAILS TO QUALIFY AS A PLAN APPROVED DOMESTIC
16 RELATIONS ORDER, THE SYSTEM SHALL SPECIFY IN ITS DETERMINATION HOW THE
17 DOMESTIC RELATIONS ORDER IS DEFICIENT AND HOW IT MAY BE AMENDED TO QUALIFY AS
18 A PLAN APPROVED DOMESTIC RELATIONS ORDER. IF THE PARTICIPANT IS CURRENTLY
19 RECEIVING BENEFITS, AND IF THE SYSTEM CAN DETERMINE THE AMOUNT OF SEGREGATED
20 FUNDS THAT WOULD BE PAYABLE TO THE ALTERNATE PAYEE IF THE DOMESTIC RELATIONS
21 ORDER WERE A PLAN APPROVED DOMESTIC RELATIONS ORDER, THE SYSTEM SHALL HOLD
22 THE SEGREGATED FUNDS DURING THE CURE PERIOD TO ALLOW THE PARTIES TO SUBMIT A
23 CERTIFIED COPY OF AN AMENDED DOMESTIC RELATIONS ORDER AND A WRITTEN REQUEST
24 FOR A DETERMINATION THAT THE AMENDED DOMESTIC RELATIONS ORDER IS A PLAN
25 APPROVED DOMESTIC RELATIONS ORDER. DURING THE CURE PERIOD, THE SYSTEM SHALL
26 PAY THE PARTICIPANT'S PORTION TO THE PARTICIPANT. AT THE END OF THE CURE
27 PERIOD, IF THE ISSUE OF WHETHER AN AMENDED DOMESTIC RELATIONS ORDER QUALIFIES
28 AS A PLAN APPROVED DOMESTIC RELATIONS ORDER REMAINS UNDETERMINED OR IF AN
29 AMENDED DOMESTIC RELATIONS ORDER IS DETERMINED NOT TO BE A PLAN APPROVED
30 DOMESTIC RELATIONS ORDER, THE SYSTEM SHALL PAY THE SEGREGATED FUNDS AND THE
31 PARTICIPANT'S PORTION TO THE PARTICIPANT. THE PARTICIPANT SHALL HOLD THE
32 SEGREGATED FUNDS IN TRUST FOR THE ALTERNATE PAYEE AS PROVIDED IN SUBSECTION
33 J. IF AN AMENDED DOMESTIC RELATIONS ORDER THAT IS SUBMITTED AFTER THE
34 EXPIRATION OF THE CURE PERIOD IS DETERMINED TO BE A PLAN APPROVED DOMESTIC
35 RELATIONS ORDER, THE SYSTEM SHALL MAKE PAYMENTS TO AN ALTERNATE PAYEE UNDER
36 THE PLAN APPROVED DOMESTIC RELATIONS ORDER ONLY PROSPECTIVELY. A
37 DETERMINATION BY THE SYSTEM THAT A DOMESTIC RELATIONS ORDER IS NOT A PLAN
38 APPROVED DOMESTIC RELATIONS ORDER DOES NOT PROHIBIT A PARTICIPANT OR
39 ALTERNATE PAYEE FROM SUBMITTING AN AMENDED DOMESTIC RELATIONS ORDER TO THE
40 SYSTEM.

41 E. EACH PARTICIPANT AND ALTERNATE PAYEE IS RESPONSIBLE FOR MAINTAINING
42 A CURRENT MAILING ADDRESS ON FILE WITH THE SYSTEM. THE SYSTEM HAS NO DUTY TO
43 ATTEMPT TO LOCATE ANY PARTICIPANT OR ALTERNATE PAYEE. THE SYSTEM HAS NO DUTY
44 TO PROVIDE A NOTICE OF RECEIPT OR DETERMINATION OR PAY BENEFITS BY MEANS
45 OTHER THAN MAILING THE NOTICE OR PAYMENTS TO THE PARTICIPANT OR ALTERNATE

1 PAYEE AT THE LAST KNOWN ADDRESS THAT IS ON FILE WITH THE SYSTEM. IF THE
2 ADDRESS OF AN ALTERNATE PAYEE IS UNKNOWN TO THE SYSTEM, BUT BENEFITS ARE
3 PAYABLE TO THE ALTERNATE PAYEE PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS
4 ORDER, THE SYSTEM SHALL EITHER:

5 1. HOLD THE ALTERNATE PAYEE'S PORTION UNTIL SUCH A TIME AS THE
6 ALTERNATE PAYEE PROVIDES THE SYSTEM WITH A CURRENT ADDRESS.

7 2. PAY THE ALTERNATE PAYEE'S PORTION TO THE PARTICIPANT, WHO SHALL
8 HOLD THE ALTERNATE PAYEE'S PORTION IN TRUST AS PROVIDED IN SUBSECTION J,
9 UNTIL SUCH A TIME AS THE ALTERNATE PAYEE IS LOCATED. AT THAT TIME THE
10 PARTICIPANT SHALL PAY THE ALTERNATE PAYEE'S PORTION DIRECTLY TO THE ALTERNATE
11 PAYEE.

12 F. ONCE THE SYSTEM IS NOTIFIED OF THE ALTERNATE PAYEE'S CURRENT
13 ADDRESS, THE SYSTEM SHALL PROSPECTIVELY PAY THE ALTERNATE PAYEE'S PORTION TO
14 THE ALTERNATE PAYEE. IF THE ADDRESS OF A PARTICIPANT IS UNKNOWN TO THE
15 SYSTEM, BUT BENEFITS ARE PAYABLE TO THE PARTICIPANT PURSUANT TO A PLAN
16 APPROVED DOMESTIC RELATIONS ORDER, THE SYSTEM SHALL HOLD THE PARTICIPANT'S
17 PORTION UNTIL THE PARTICIPANT PROVIDES THE SYSTEM WITH A CURRENT ADDRESS.

18 G. IF THE ALTERNATE PAYEE IDENTIFIED IN A PLAN APPROVED DOMESTIC
19 RELATIONS ORDER PREDECEASES THE PARTICIPANT AND THE PLAN APPROVED DOMESTIC
20 RELATIONS ORDER DOES NOT OTHERWISE PROVIDE FOR THE DISPOSITION OF THE
21 ALTERNATE PAYEE'S INTEREST THE SYSTEM SHALL PAY THE ALTERNATE PAYEE'S PORTION
22 TO THE PERSONAL REPRESENTATIVE OF THE DECEASED ALTERNATE PAYEE PURSUANT TO
23 THIS SUBSECTION. THE SYSTEM IS NOT RESPONSIBLE FOR MAKING BENEFIT PAYMENTS
24 TO A PERSONAL REPRESENTATIVE UNTIL THE PERSONAL REPRESENTATIVE HAS:

25 1. PERSUADED THE SYSTEM THAT THE PERSONAL REPRESENTATIVE IS AUTHORIZED
26 TO RECEIVE PAYMENTS DESIGNATED FOR THE DECEASED ALTERNATE PAYEE.

27 2. PROVIDED THE SYSTEM WITH AN ADDRESS TO WHICH THE PAYMENTS SHOULD BE
28 SENT. THE PERSONAL REPRESENTATIVE IS RESPONSIBLE FOR MAINTAINING A CURRENT
29 MAILING ADDRESS ON FILE WITH THE SYSTEM. THE SYSTEM HAS NO DUTY TO ATTEMPT
30 TO LOCATE ANY PERSONAL REPRESENTATIVE.

31 H. IF, WITHIN THIRTY DAYS AFTER THE DATE THE SYSTEM VERIFIES AN
32 ALTERNATE PAYEE'S DEATH, A PERSONAL REPRESENTATIVE DOES NOT MAKE DEMAND ON
33 THE SYSTEM FOR THE ALTERNATE PAYEE'S PORTION, THE SYSTEM SHALL EITHER:

34 1. HOLD THE ALTERNATE PAYEE'S PORTION UNTIL THE TIME A PERSONAL
35 REPRESENTATIVE MAKES A PROPER DEMAND FOR PAYMENT OF THE ALTERNATE PAYEE'S
36 PORTION.

37 2. REMIT THE ALTERNATE PAYEE'S PORTION TO THE PARTICIPANT, WHO SHALL
38 HOLD THE AMOUNTS IN TRUST FOR THE ESTATE OF THE ALTERNATE PAYEE UNTIL THE
39 PERSONAL REPRESENTATIVE IS IDENTIFIED. AT THAT TIME THE PARTICIPANT SHALL
40 PAY THE ALTERNATE PAYEE'S PORTION PAID BY THE SYSTEM TO THE PARTICIPANT TO
41 THE PERSONAL REPRESENTATIVE.

42 THEREAFTER, THE PLAN SHALL PROSPECTIVELY PAY THE ALTERNATE PAYEE'S PORTION TO
43 THE PERSONAL REPRESENTATIVE.

44 I. AMOUNTS HELD OR PAID PURSUANT TO THIS SECTION SHALL NOT ACCRUE
45 INTEREST UNLESS OTHERWISE PRESCRIBED BY THIS ARTICLE.

1 J. THE SYSTEM IS NOT LIABLE TO THE PARTICIPANT, THE ALTERNATE PAYEE,
2 ANY PERSONAL REPRESENTATIVE OF THE ESTATE OF AN ALTERNATE PAYEE OR ANY OTHER
3 PERSON FOR ANY AMOUNT PAID, WITHHELD OR DISBURSED BY THE SYSTEM PURSUANT TO
4 THIS SECTION. IF ONE OR MORE PAYMENTS ARE MADE BY THE SYSTEM TO A PERSON NOT
5 OTHERWISE ENTITLED TO RECEIVE THE PAYMENTS, THE RECIPIENT OF THE PAYMENT IS
6 DESIGNATED A CONSTRUCTIVE TRUSTEE FOR THE PAYMENT RECEIVED AND, TOGETHER WITH
7 THE MARITAL COMMUNITY, IF ANY, IS THE SOLE PARTY AGAINST WHOM AN ACTION MAY
8 BE BROUGHT TO RECOVER THE PAYMENT.

9 K. THE SYSTEM MAY ADOPT POLICIES AND PROCEDURES THAT GOVERN THE
10 IMPLEMENTATION OF THIS SECTION.

11 Sec. 5. Section 38-881, Arizona Revised Statutes, as amended by Laws
12 2006, chapter 264, section 13 and chapter 308, section 1, is amended to read:

13 38-881. Definitions

14 In this article, unless the context otherwise requires:

15 1. "Accidental disability" means a physical or mental condition that
16 the local board finds totally and permanently prevents an employee from
17 performing a reasonable range of duties within the employee's department, was
18 incurred in the performance of the employee's duties and was the result of
19 any of the following:

20 (a) Physical contact with inmates, prisoners, parolees or persons on
21 probation.

22 (b) Responding to a confrontational situation with inmates, prisoners,
23 parolees or persons on probation.

24 (c) A job related motor vehicle accident while on official business
25 for the employee's employer. A job related motor vehicle accident does not
26 include an accident that occurs on the way to or from work. Persons found
27 guilty of violating a personnel rule, a rule established by the employee's
28 employer or a state or federal law in connection with a job related motor
29 vehicle accident do not meet the conditions for accidental disability.

30 2. "Accumulated member contributions" means the sum of all member
31 contributions deducted from a member's salary and paid to the fund, plus
32 member contributions transferred to the fund by another retirement plan
33 covering public employees of this state, plus previously withdrawn
34 accumulated member contributions which are repaid to the fund in accordance
35 with this article, minus any benefits paid to or on behalf of a member.

36 3. "ALTERNATE PAYEE" MEANS THE SPOUSE OR FORMER SPOUSE OF A
37 PARTICIPANT AS DESIGNATED IN A DOMESTIC RELATIONS ORDER.

38 4. "ALTERNATE PAYEE'S PORTION" MEANS BENEFITS THAT ARE PAYABLE TO AN
39 ALTERNATE PAYEE PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS ORDER.

40 ~~3-~~ 5. "Average monthly salary" means one-thirty-sixth of the
41 aggregate amount of salary that is paid a member by a participating employer
42 during a period of thirty-six consecutive months of service in which the
43 member received the highest salary within the last one hundred twenty months
44 of service. Average monthly salary means the aggregate amount of salary that
45 is paid a member divided by the member's months of service if the member has

1 less than thirty-six months of service. In the computation under this
2 paragraph, a period of nonpaid or partially paid industrial leave shall be
3 considered based on the salary the employee would have received in the
4 employee's job classification if the employee was not on industrial leave.

5 ~~4-~~ 6. "Beneficiary" means an individual who is being paid or who has
6 entitlement to the future payment of a pension on account of a reason other
7 than the individual's membership in the retirement plan.

8 ~~5-~~ 7. "Claimant" means a member, beneficiary or estate that files an
9 application for benefits with the retirement plan.

10 ~~6-~~ 8. "Credited service" means credited service transferred to the
11 retirement plan from another retirement system or plan for public employees
12 of this state, plus those compensated periods of service as a member of the
13 retirement plan for which member contributions are on deposit in the fund.

14 9. "CURE PERIOD" MEANS THE NINETY-DAY PERIOD IN WHICH A PARTICIPANT OR
15 ALTERNATE PAYEE MAY SUBMIT AN AMENDED DOMESTIC RELATIONS ORDER AND REQUEST A
16 DETERMINATION, CALCULATED FROM THE TIME THE PLAN ISSUES A DETERMINATION
17 FINDING THAT A PREVIOUSLY SUBMITTED DOMESTIC RELATIONS ORDER DID NOT QUALIFY
18 AS A PLAN APPROVED DOMESTIC RELATIONS ORDER.

19 ~~7-~~ 10. "Designated position" means:

20 (a) For a county:

21 (i) A county detention officer.

22 (ii) A nonuniformed employee of a sheriff's department whose primary
23 duties require direct contact with inmates.

24 (b) For the state department of corrections and the department of
25 juvenile corrections, only the following specifically designated positions:

26 (i) Food service.

27 (ii) Nursing personnel.

28 (iii) Corrections physician assistant.

29 (iv) Therapist.

30 (v) Corrections dental assistant.

31 (vi) Hygienist.

32 (vii) Corrections medical assistant.

33 (viii) Correctional service officer, including assistant deputy
34 warden, deputy warden, warden and superintendent.

35 (ix) State correctional program officer.

36 (x) Parole or community supervision officers.

37 (xi) Investigators.

38 (xii) Teachers.

39 (xiii) Institutional maintenance workers.

40 (xiv) Youth corrections officer.

41 (xv) Youth program officer.

42 (xvi) Behavioral health treatment unit managers.

43 (xvii) The director and assistant directors of the department of
44 juvenile corrections and the superintendent of the state educational system
45 for committed youth.

1 (xviii) The director, deputy directors and assistant directors of the
2 state department of corrections.

3 (xix) Other positions designated by the local board of the state
4 department of corrections or the local board of the department of juvenile
5 corrections pursuant to section 38-891, subsection E.

6 (c) For a city or town, a city or town detention officer.

7 (d) For an employer of an eligible group as defined in section 38-842,
8 full-time dispatchers.

9 (e) For the judiciary, probation, surveillance and juvenile detention
10 officers.

11 11. "DETERMINATION" MEANS A WRITTEN DOCUMENT THAT INDICATES TO A
12 PARTICIPANT AND ALTERNATE PAYEE WHETHER A DOMESTIC RELATIONS ORDER QUALIFIES
13 AS A PLAN APPROVED DOMESTIC RELATIONS ORDER.

14 12. "DETERMINATION PERIOD" MEANS THE NINETY-DAY PERIOD IN WHICH THE
15 PLAN MUST REVIEW A DOMESTIC RELATIONS ORDER THAT IS SUBMITTED BY A
16 PARTICIPANT OR ALTERNATE PAYEE TO DETERMINE WHETHER THE DOMESTIC RELATIONS
17 ORDER QUALIFIES AS A PLAN APPROVED DOMESTIC RELATIONS ORDER, CALCULATED FROM
18 THE TIME THE PLAN MAILES A NOTICE OF RECEIPT TO THE PARTICIPANT AND ALTERNATE
19 PAYEE.

20 13. "DOMESTIC RELATIONS ORDER" MEANS AN ORDER OF A COURT OF THIS STATE
21 THAT IS MADE PURSUANT TO THE DOMESTIC RELATIONS LAWS OF THIS STATE AND THAT
22 CREATES OR RECOGNIZES THE EXISTENCE OF AN ALTERNATE PAYEE'S RIGHT TO, OR
23 ASSIGNS TO AN ALTERNATE PAYEE THE RIGHT TO, RECEIVE A PORTION OF THE BENEFITS
24 PAYABLE TO A PARTICIPANT.

25 ~~8-~~ 14. "Employee" means a person determined by the local board to be
26 employed by a participating employer in a designated position.

27 ~~9-~~ 15. "Employer" means an agency or department of this state or a
28 political subdivision of this state which has one or more employees in a
29 designated position.

30 ~~10-~~ 16. "Fund" means the corrections officer retirement plan fund.

31 ~~11-~~ 17. "Fund manager" means the fund manager of the public safety
32 personnel retirement system.

33 ~~12-~~ 18. "Juvenile detention officer" means a juvenile detention
34 officer responsible for the direct custodial supervision of juveniles who are
35 detained in a county juvenile detention center.

36 ~~13-~~ 19. "Local board" means the retirement board of the employer that
37 consists of persons appointed or elected to administer the plan as it applies
38 to the employer's members in the plan.

39 ~~14-~~ 20. "Member" means any employee who meets all of the following
40 qualifications:

41 (a) Who is a full-time paid person employed by a participating
42 employer in a designated position.

43 (b) Who is receiving salary for personal services rendered to a
44 participating employer or would be receiving salary except for an authorized
45 leave of absence.

1 (c) Whose customary employment is at least forty hours each week and
2 for more than six months in a calendar year.

3 ~~15-~~ 21. "Normal retirement date" means the first day of the calendar
4 month immediately following an employee's completion of twenty years of
5 service or, in the case of a dispatcher, twenty-five years of service, the
6 employee's sixty-second birthday and completion of ten years of service or
7 the month in which the sum of the employee's age and years of credited
8 service equals eighty.

9 22. "NOTICE OF RECEIPT" MEANS A WRITTEN DOCUMENT THAT IS ISSUED BY THE
10 PLAN TO A PARTICIPANT AND ALTERNATE PAYEE AND THAT STATES THAT THE PLAN HAS
11 RECEIVED A DOMESTIC RELATIONS ORDER AND A REQUEST FOR A DETERMINATION THAT
12 THE DOMESTIC RELATIONS ORDER IS A PLAN APPROVED DOMESTIC RELATIONS ORDER.

13 23. "PARTICIPANT" MEANS A MEMBER WHO IS SUBJECT TO A DOMESTIC RELATIONS
14 ORDER.

15 24. "PARTICIPANT'S PORTION" MEANS BENEFITS THAT ARE PAYABLE TO A
16 PARTICIPANT PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS ORDER.

17 ~~16-~~ 25. "Participating employer" means an employer which the fund
18 manager has determined to have one or more employees in a designated position
19 or a county, city or town which has entered into a joinder agreement pursuant
20 to section 38-902.

21 ~~17-~~ 26. "Pension" means a series of monthly payments by the retirement
22 plan.

23 27. "PERSONAL REPRESENTATIVE" MEANS THE PERSONAL REPRESENTATIVE OF A
24 DECEASED ALTERNATE PAYEE.

25 28. "PLAN APPROVED DOMESTIC RELATIONS ORDER" MEANS A DOMESTIC RELATIONS
26 ORDER THAT THE PLAN APPROVES AS MEETING ALL THE REQUIREMENTS FOR A PLAN
27 APPROVED DOMESTIC RELATIONS ORDER AS OTHERWISE PRESCRIBED IN THIS ARTICLE.

28 ~~18-~~ 29. "Probation or surveillance officer" means an officer appointed
29 pursuant to section 8-203, 12-251 or 12-259 but does not include other
30 personnel, office assistants or support staff.

31 ~~19-~~ 30. "Retired member" means an individual who is being paid a
32 pension on account of the individual's membership in the retirement plan.

33 ~~20-~~ 31. "Retirement" means termination of employment after a member
34 has fulfilled all requirements for a pension.

35 ~~21-~~ 32. "Retirement plan" or "plan" means the corrections officer
36 retirement plan established by this article.

37 ~~22-~~ 33. "Salary" means the base salary, shift differential pay and
38 holiday pay paid a member in a designated position for personal services
39 rendered to a participating employer on a regular monthly, semimonthly or
40 biweekly payroll basis. Salary includes amounts that are subject to deferred
41 compensation or tax shelter agreements. Salary does not include payment for
42 any remuneration or reimbursement other than as prescribed by this
43 paragraph. For the purposes of this paragraph, "base salary" means the
44 amount of compensation each member is regularly paid for personal services
45 rendered to an employer before the addition of any extra monies, including

1 overtime pay, shift differential pay, holiday pay, fringe benefit pay and
2 similar extra payments.

3 34. "SEGREGATED FUNDS" MEANS THE AMOUNT OF BENEFITS THAT WOULD
4 CURRENTLY BE PAYABLE TO AN ALTERNATE PAYEE PURSUANT TO A DOMESTIC RELATIONS
5 ORDER UNDER REVIEW BY THE PLAN, OR A DOMESTIC RELATIONS ORDER SUBMITTED TO
6 THE PLAN THAT FAILED TO QUALIFY AS A PLAN APPROVED DOMESTIC RELATIONS ORDER,
7 IF THE DOMESTIC RELATIONS ORDER WERE DETERMINED TO BE A PLAN APPROVED
8 DOMESTIC RELATIONS ORDER.

9 ~~23-~~ 35. "Service" means employment rendered to a participating
10 employer as an employee in a designated position. Any absence that is
11 authorized by an employer, including any periods during which the employee is
12 on an employer sponsored long-term disability program, is considered as
13 service if the employee returns or is deemed by the employer to have returned
14 to a designated position within the period of the authorized absence.

15 ~~24-~~ 36. "Total and permanent disability" means a physical or mental
16 condition that is not an accidental disability, that the local board finds
17 totally and permanently prevents a member from engaging in any gainful
18 employment and that is the direct and proximate result of the member's
19 performance of the member's duty as an employee of a participating employer.

20 Sec. 6. Section 38-881, Arizona Revised Statutes, as amended by Laws
21 2006, chapter 264, section 14 and chapter 308, section 2, is amended to read:

22 38-881. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Accidental disability" means a physical or mental condition that
25 the local board finds totally and permanently prevents an employee from
26 performing a reasonable range of duties within the employee's department, was
27 incurred in the performance of the employee's duties and was the result of
28 any of the following:

29 (a) Physical contact with inmates, prisoners, parolees or persons on
30 probation.

31 (b) Responding to a confrontational situation with inmates, prisoners,
32 parolees or persons on probation.

33 (c) A job related motor vehicle accident while on official business
34 for the employee's employer. A job related motor vehicle accident does not
35 include an accident that occurs on the way to or from work. Persons found
36 guilty of violating a personnel rule, a rule established by the employee's
37 employer or a state or federal law in connection with a job related motor
38 vehicle accident do not meet the conditions for accidental disability.

39 2. "Accumulated member contributions" means the sum of all member
40 contributions deducted from a member's salary and paid to the fund, plus
41 member contributions transferred to the fund by another retirement plan
42 covering public employees of this state, plus previously withdrawn
43 accumulated member contributions which are repaid to the fund in accordance
44 with this article, minus any benefits paid to or on behalf of a member.

1 3. "ALTERNATE PAYEE" MEANS THE SPOUSE OR FORMER SPOUSE OF A
2 PARTICIPANT AS DESIGNATED IN A DOMESTIC RELATIONS ORDER.

3 4. "ALTERNATE PAYEE'S PORTION" MEANS BENEFITS THAT ARE PAYABLE TO AN
4 ALTERNATE PAYEE PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS ORDER.

5 ~~3-~~ 5. "Average monthly salary" means one-thirty-sixth of the
6 aggregate amount of salary that is paid a member by a participating employer
7 during a period of thirty-six consecutive months of service in which the
8 member received the highest salary within the last one hundred twenty months
9 of service. Average monthly salary means the aggregate amount of salary that
10 is paid a member divided by the member's months of service if the member has
11 less than thirty-six months of service. In the computation under this
12 paragraph, a period of nonpaid or partially paid industrial leave shall be
13 considered based on the salary the employee would have received in the
14 employee's job classification if the employee was not on industrial leave.

15 ~~4-~~ 6. "Beneficiary" means an individual who is being paid or who has
16 entitlement to the future payment of a pension on account of a reason other
17 than the individual's membership in the retirement plan.

18 ~~5-~~ 7. "Claimant" means a member, beneficiary or estate that files an
19 application for benefits with the retirement plan.

20 ~~6-~~ 8. "Credited service" means credited service transferred to the
21 retirement plan from another retirement system or plan for public employees
22 of this state, plus those compensated periods of service as a member of the
23 retirement plan for which member contributions are on deposit in the fund.

24 9. "CURE PERIOD" MEANS THE NINETY-DAY PERIOD IN WHICH A PARTICIPANT OR
25 ALTERNATE PAYEE MAY SUBMIT AN AMENDED DOMESTIC RELATIONS ORDER AND REQUEST A
26 DETERMINATION, CALCULATED FROM THE TIME THE PLAN ISSUES A DETERMINATION
27 FINDING THAT A PREVIOUSLY SUBMITTED DOMESTIC RELATIONS ORDER DID NOT QUALIFY
28 AS A PLAN APPROVED DOMESTIC RELATIONS ORDER.

29 ~~7-~~ 10. "Designated position" means:

30 (a) For a county:

31 (i) A county detention officer.

32 (ii) A nonuniformed employee of a sheriff's department whose primary
33 duties require direct contact with inmates.

34 (b) For the state department of corrections and the department of
35 juvenile corrections, only the following specifically designated positions:

36 (i) Food service.

37 (ii) Nursing personnel.

38 (iii) Corrections physician assistant.

39 (iv) Therapist.

40 (v) Corrections dental assistant.

41 (vi) Hygienist.

42 (vii) Corrections medical assistant.

43 (viii) Correctional service officer, including assistant deputy
44 warden, deputy warden, warden and superintendent.

45 (ix) State correctional program officer.

- 1 (x) Parole or community supervision officers.
- 2 (xi) Investigators.
- 3 (xii) Teachers.
- 4 (xiii) Institutional maintenance workers.
- 5 (xiv) Youth corrections officer.
- 6 (xv) Youth program officer.
- 7 (xvi) Behavioral health treatment unit managers.
- 8 (xvii) The director and assistant directors of the department of
- 9 juvenile corrections and the superintendent of the state educational system
- 10 for committed youth.
- 11 (xviii) The director, deputy directors and assistant directors of the
- 12 state department of corrections.
- 13 (xix) Other positions designated by the local board of the state
- 14 department of corrections or the local board of the department of juvenile
- 15 corrections pursuant to section 38-891, subsection E.
- 16 (c) For a city or town, a city or town detention officer.
- 17 (d) For an employer of an eligible group as defined in section 38-842,
- 18 full-time dispatchers.
- 19 (e) For the judiciary, probation, surveillance and juvenile detention
- 20 officers.
- 21 11. "DETERMINATION" MEANS A WRITTEN DOCUMENT THAT INDICATES TO A
- 22 PARTICIPANT AND ALTERNATE PAYEE WHETHER A DOMESTIC RELATIONS ORDER QUALIFIES
- 23 AS A PLAN APPROVED DOMESTIC RELATIONS ORDER.
- 24 12. "DETERMINATION PERIOD" MEANS THE NINETY-DAY PERIOD IN WHICH THE
- 25 PLAN MUST REVIEW A DOMESTIC RELATIONS ORDER THAT IS SUBMITTED BY A
- 26 PARTICIPANT OR ALTERNATE PAYEE TO DETERMINE WHETHER THE DOMESTIC RELATIONS
- 27 ORDER QUALIFIES AS A PLAN APPROVED DOMESTIC RELATIONS ORDER, CALCULATED FROM
- 28 THE TIME THE PLAN MAILS A NOTICE OF RECEIPT TO THE PARTICIPANT AND ALTERNATE
- 29 PAYEE.
- 30 13. "DOMESTIC RELATIONS ORDER" MEANS AN ORDER OF A COURT OF THIS STATE
- 31 THAT IS MADE PURSUANT TO THE DOMESTIC RELATIONS LAWS OF THIS STATE AND THAT
- 32 CREATES OR RECOGNIZES THE EXISTENCE OF AN ALTERNATE PAYEE'S RIGHT TO, OR
- 33 ASSIGNS TO AN ALTERNATE PAYEE THE RIGHT TO, RECEIVE A PORTION OF THE BENEFITS
- 34 PAYABLE TO A PARTICIPANT.
- 35 ~~8-~~ 14. "Employee" means a person determined by the local board to be
- 36 employed by a participating employer in a designated position.
- 37 ~~9-~~ 15. "Employer" means an agency or department of this state or a
- 38 political subdivision of this state which has one or more employees in a
- 39 designated position.
- 40 ~~10-~~ 16. "Fund" means the corrections officer retirement plan fund.
- 41 ~~11-~~ 17. "Fund manager" means the fund manager of the public safety
- 42 personnel retirement system.
- 43 ~~12-~~ 18. "Juvenile detention officer" means a detention officer
- 44 responsible for the direct custodial supervision of juveniles who are
- 45 detained in a county juvenile detention center.

1 ~~13-~~ 19. "Local board" means the retirement board of the employer that
2 consists of persons appointed or elected to administer the plan as it applies
3 to the employer's members in the plan.
4 ~~14-~~ 20. "Member" means any employee who meets all of the following
5 qualifications:
6 (a) Who is a full-time paid person employed by a participating
7 employer in a designated position.
8 (b) Who is receiving salary for personal services rendered to a
9 participating employer or would be receiving salary except for an authorized
10 leave of absence.
11 (c) Whose customary employment is at least forty hours each week and
12 for more than six months in a calendar year.
13 ~~15-~~ 21. "Normal retirement date" means the first day of the calendar
14 month immediately following an employee's completion of twenty years of
15 service or, in the case of a dispatcher, twenty-five years of service, the
16 employee's sixty-second birthday and completion of ten years of service or
17 the month in which the sum of the employee's age and years of credited
18 service equals eighty.
19 22. "NOTICE OF RECEIPT" MEANS A WRITTEN DOCUMENT THAT IS ISSUED BY THE
20 PLAN TO A PARTICIPANT AND ALTERNATE PAYEE AND THAT STATES THAT THE PLAN HAS
21 RECEIVED A DOMESTIC RELATIONS ORDER AND A REQUEST FOR A DETERMINATION THAT
22 THE DOMESTIC RELATIONS ORDER IS A PLAN APPROVED DOMESTIC RELATIONS
23 ORDER.
24 23. "PARTICIPANT" MEANS A MEMBER WHO IS SUBJECT TO A DOMESTIC RELATIONS
25 ORDER.
26 24. "PARTICIPANT'S PORTION" MEANS BENEFITS THAT ARE PAYABLE TO A
27 PARTICIPANT PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS ORDER.
28 ~~16-~~ 25. "Participating employer" means an employer which the fund
29 manager has determined to have one or more employees in a designated position
30 or a county, city or town which has entered into a joinder agreement pursuant
31 to section 38-902.
32 ~~17-~~ 26. "Pension" means a series of monthly payments by the retirement
33 plan.
34 27. "PERSONAL REPRESENTATIVE" MEANS THE PERSONAL REPRESENTATIVE OF A
35 DECEASED ALTERNATE PAYEE.
36 28. "PLAN APPROVED DOMESTIC RELATIONS ORDER" MEANS A DOMESTIC RELATIONS
37 ORDER THAT THE PLAN APPROVES AS MEETING ALL THE REQUIREMENTS FOR A PLAN
38 APPROVED DOMESTIC RELATIONS ORDER AS OTHERWISE PRESCRIBED IN THIS ARTICLE.
39 ~~18-~~ 29. "Probation or surveillance officer" means an officer appointed
40 pursuant to section 8-203, 12-251 or 12-259 but does not include other
41 personnel, office assistants or support staff.
42 ~~19-~~ 30. "Retired member" means an individual who is being paid a
43 pension on account of the individual's membership in the retirement plan.
44 ~~20-~~ 31. "Retirement" means termination of employment after a member
has fulfilled all requirements for a pension.

1 ~~21.~~ 32. "Retirement plan" or "plan" means the corrections officer
2 retirement plan established by this article.

3 ~~22.~~ 33. "Salary" means the base salary, overtime pay, shift
4 differential pay and holiday pay paid a member in a designated position for
5 personal services rendered to a participating employer on a regular monthly,
6 semimonthly or biweekly payroll basis, except that for the purposes of this
7 paragraph the amount of overtime included shall not include payments to the
8 member for the sale of compensatory time. Salary includes amounts that are
9 subject to deferred compensation or tax shelter agreements. Salary does not
10 include payment for any remuneration or reimbursement other than as
11 prescribed by this paragraph. For the purposes of this paragraph, "base
12 salary" means the amount of compensation each member is regularly paid for
13 personal services rendered to an employer before the addition of any extra
14 monies, including overtime pay, shift differential pay, holiday pay, payments
15 for the sale of compensatory time, fringe benefit pay and similar extra
16 payments.

17 34. "SEGREGATED FUNDS" MEANS THE AMOUNT OF BENEFITS THAT WOULD
18 CURRENTLY BE PAYABLE TO AN ALTERNATE PAYEE PURSUANT TO A DOMESTIC RELATIONS
19 ORDER UNDER REVIEW BY THE PLAN, OR A DOMESTIC RELATIONS ORDER SUBMITTED TO
20 THE PLAN THAT FAILED TO QUALIFY AS A PLAN APPROVED DOMESTIC RELATIONS ORDER,
21 IF THE DOMESTIC RELATIONS ORDER WERE DETERMINED TO BE A PLAN APPROVED
22 DOMESTIC RELATIONS ORDER.

23 ~~23.~~ 35. "Service" means employment rendered to a participating
24 employer as an employee in a designated position. Any absence that is
25 authorized by an employer, including any periods during which the employee is
26 on an employer sponsored long-term disability program, is considered as
27 service if the employee returns or is deemed by the employer to have returned
28 to a designated position within the period of the authorized absence.

29 ~~24.~~ 36. "Total and permanent disability" means a physical or mental
30 condition that is not an accidental disability, that the local board finds
31 totally and permanently prevents a member from engaging in any gainful
32 employment and that is the direct and proximate result of the member's
33 performance of the member's duty as an employee of a participating employer.

34 Sec. 7. Title 38, chapter 5, article 6, Arizona Revised Statutes, is
35 amended by adding section 38-910, to read:

36 38-910. Domestic relations orders; procedures

37 A. NOTWITHSTANDING ANY OTHER LAW, IN A JUDICIAL PROCEEDING FOR
38 ANNULMENT, DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION THAT PROVIDES FOR THE
39 DISTRIBUTION OF COMMUNITY PROPERTY, OR IN ANY JUDICIAL PROCEEDING TO AMEND OR
40 ENFORCE SUCH A PROPERTY DISTRIBUTION, A COURT IN THIS STATE MAY ISSUE A
41 DOMESTIC RELATIONS ORDER THAT PROVIDES THAT ALL OR ANY PART OF A
42 PARTICIPANT'S BENEFIT OR REFUND IN THE PLAN THAT WOULD OTHERWISE BE PAYABLE
43 TO THAT PARTICIPANT SHALL INSTEAD BE PAID BY THE PLAN TO AN ALTERNATE PAYEE.

44 B. A DOMESTIC RELATIONS ORDER IS NOT EFFECTIVE AGAINST THE PLAN UNLESS
45 THE DOMESTIC RELATIONS ORDER IS APPROVED BY THE PLAN AND QUALIFIES AS A PLAN

1 APPROVED DOMESTIC RELATIONS ORDER. TO QUALIFY AS A PLAN APPROVED DOMESTIC
2 RELATIONS ORDER, A DOMESTIC RELATIONS ORDER SHALL COMPLY WITH ANY POLICIES OR
3 PROCEDURES ADOPTED PURSUANT TO SUBSECTION K AND SHALL ALSO MEET ALL OF THE
4 FOLLOWING REQUIREMENTS:

5 1. THE DOMESTIC RELATIONS ORDER SHALL STATE THE NAME AND THE LAST
6 KNOWN MAILING ADDRESS OF THE PARTICIPANT AND THE NAME AND LAST KNOWN MAILING
7 ADDRESS OF THE ALTERNATE PAYEE THAT IS COVERED BY THE DOMESTIC RELATIONS
8 ORDER.

9 2. THE DOMESTIC RELATIONS ORDER SHALL CLEARLY STATE THE AMOUNT OR
10 PERCENTAGE OF THE PARTICIPANT'S BENEFITS THAT IS PAYABLE BY THE PLAN TO THE
11 ALTERNATE PAYEE OR THE PRECISE MANNER IN WHICH THE AMOUNT OR PERCENTAGE IS TO
12 BE DETERMINED.

13 3. THE DOMESTIC RELATIONS ORDER SHALL STATE THE NUMBER OF PAYMENTS OR
14 PERIODS TO WHICH THE DOMESTIC RELATIONS ORDER APPLIES, IF APPLICABLE.

15 4. THE DOMESTIC RELATIONS ORDER SHALL STATE THAT THE DOMESTIC
16 RELATIONS ORDER APPLIES TO THE PLAN.

17 5. THE DOMESTIC RELATIONS ORDER SHALL NOT REQUIRE THE PLAN TO PROVIDE
18 ANY TYPE OR FORM OF BENEFIT OR ANY OPTION NOT OTHERWISE PROVIDED BY THIS
19 ARTICLE.

20 6. THE DOMESTIC RELATIONS ORDER SHALL NOT REQUIRE THE PLAN TO PROVIDE
21 INCREASED BENEFITS DETERMINED ON THE BASIS OF ACTUARIAL VALUE.

22 7. THE DOMESTIC RELATIONS ORDER SHALL NOT REQUIRE THE PAYMENT OF
23 BENEFITS TO AN ALTERNATE PAYEE IF THE BENEFITS ARE REQUIRED TO BE PAID TO
24 ANOTHER ALTERNATE PAYEE UNDER A SEPARATE PLAN APPROVED DOMESTIC RELATIONS
25 ORDER.

26 C. ON RECEIPT BY THE PLAN OF A CERTIFIED COPY OF A DOMESTIC RELATIONS
27 ORDER AND A WRITTEN REQUEST FOR A DETERMINATION THAT THE DOMESTIC RELATIONS
28 ORDER IS A PLAN APPROVED DOMESTIC RELATIONS ORDER, THE PLAN SHALL PROMPTLY
29 ISSUE A WRITTEN NOTICE OF RECEIPT STATING THAT THE DOMESTIC RELATIONS ORDER
30 AND REQUEST WERE RECEIVED TO THE PARTICIPANT AND ALTERNATE PAYEE AT THE
31 ADDRESSES ON FILE, IF ANY.

32 D. THE PLAN HAS A DETERMINATION PERIOD TO ISSUE A WRITTEN
33 DETERMINATION INDICATING WHETHER A DOMESTIC RELATIONS ORDER QUALIFIES AS A
34 PLAN APPROVED DOMESTIC RELATIONS ORDER. IF THE PARTICIPANT IS RECEIVING
35 BENEFITS DURING THE DETERMINATION PERIOD, AND IF THE PLAN CAN DETERMINE THE
36 AMOUNT OF THE BENEFITS THAT CURRENTLY WOULD BE PAYABLE TO THE ALTERNATE PAYEE
37 IF THE DOMESTIC RELATIONS ORDER WERE A PLAN APPROVED DOMESTIC RELATIONS
38 ORDER, THE PLAN SHALL SEGREGATE THE AMOUNT AND SHALL PAY THE REMAINING
39 PORTION OF THE BENEFITS TO THE PARTICIPANT. IF THE PLAN DETERMINES THE
40 DOMESTIC RELATIONS ORDER IS A PLAN APPROVED DOMESTIC RELATIONS ORDER, THE
41 PLAN SHALL PAY THE PARTICIPANT AND ALTERNATE PAYEE PURSUANT TO THE PLAN
42 APPROVED DOMESTIC RELATIONS ORDER ON THE FIRST DAY OF THE MONTH FOLLOWING THE
43 MONTH IN WHICH THE DETERMINATION WAS ISSUED, OR THE FIRST DAY OF THE MONTH
44 FOLLOWING THE MONTH IN WHICH A BENEFIT IS PAYABLE UNDER THE PLAN APPROVED
45 DOMESTIC RELATIONS ORDER, WHICHEVER IS LATER. IF THE PLAN DETERMINES THE

1 DOMESTIC RELATIONS ORDER FAILS TO QUALIFY AS A PLAN APPROVED DOMESTIC
2 RELATIONS ORDER, THE PLAN SHALL SPECIFY IN ITS DETERMINATION HOW THE DOMESTIC
3 RELATIONS ORDER IS DEFICIENT AND HOW IT MAY BE AMENDED TO QUALIFY AS A PLAN
4 APPROVED DOMESTIC RELATIONS ORDER. IF THE PARTICIPANT IS CURRENTLY RECEIVING
5 BENEFITS, AND IF THE PLAN CAN DETERMINE THE AMOUNT OF SEGREGATED FUNDS THAT
6 WOULD BE PAYABLE TO THE ALTERNATE PAYEE IF THE DOMESTIC RELATIONS ORDER WERE
7 A PLAN APPROVED DOMESTIC RELATIONS ORDER, THE PLAN SHALL HOLD THE SEGREGATED
8 FUNDS DURING THE CURE PERIOD TO ALLOW THE PARTIES TO SUBMIT A CERTIFIED COPY
9 OF AN AMENDED DOMESTIC RELATIONS ORDER AND A WRITTEN REQUEST FOR A
10 DETERMINATION THAT THE AMENDED DOMESTIC RELATIONS ORDER IS A PLAN APPROVED
11 DOMESTIC RELATIONS ORDER. DURING THE CURE PERIOD, THE PLAN SHALL PAY THE
12 PARTICIPANT'S PORTION TO THE PARTICIPANT. AT THE END OF THE CURE PERIOD, IF
13 THE ISSUE OF WHETHER AN AMENDED DOMESTIC RELATIONS ORDER QUALIFIES AS A PLAN
14 APPROVED DOMESTIC RELATIONS ORDER REMAINS UNDETERMINED OR IF AN AMENDED
15 DOMESTIC RELATIONS ORDER IS DETERMINED NOT TO BE A PLAN APPROVED DOMESTIC
16 RELATIONS ORDER, THE PLAN SHALL PAY THE SEGREGATED FUNDS AND THE
17 PARTICIPANT'S PORTION TO THE PARTICIPANT. THE PARTICIPANT SHALL HOLD THE
18 SEGREGATED FUNDS IN TRUST FOR THE ALTERNATE PAYEE AS PROVIDED IN
19 SUBSECTION J. IF AN AMENDED DOMESTIC RELATIONS ORDER THAT IS SUBMITTED AFTER
20 THE EXPIRATION OF THE CURE PERIOD IS DETERMINED TO BE A PLAN APPROVED
21 DOMESTIC RELATIONS ORDER, THE PLAN SHALL MAKE PAYMENTS TO AN ALTERNATE PAYEE
22 UNDER THE PLAN APPROVED DOMESTIC RELATIONS ORDER ONLY PROSPECTIVELY.
23 DETERMINATION BY THE PLAN THAT A DOMESTIC RELATIONS ORDER IS NOT A PLAN
24 APPROVED DOMESTIC RELATIONS ORDER DOES NOT PROHIBIT A PARTICIPANT OR
25 ALTERNATE PAYEE FROM SUBMITTING AN AMENDED DOMESTIC RELATIONS ORDER TO THE
26 PLAN.

27 E. EACH PARTICIPANT AND ALTERNATE PAYEE IS RESPONSIBLE FOR MAINTAINING
28 A CURRENT MAILING ADDRESS ON FILE WITH THE PLAN. THE PLAN HAS NO DUTY TO
29 ATTEMPT TO LOCATE ANY PARTICIPANT OR ALTERNATE PAYEE. THE PLAN HAS NO DUTY
30 TO PROVIDE A NOTICE OF RECEIPT OR DETERMINATION OR PAY BENEFITS BY MEANS
31 OTHER THAN MAILING THE NOTICE OR PAYMENTS TO THE PARTICIPANT OR ALTERNATE
32 PAYEE AT THE LAST KNOWN ADDRESS THAT IS ON FILE WITH THE PLAN. IF THE
33 ADDRESS OF AN ALTERNATE PAYEE IS UNKNOWN TO THE PLAN, BUT BENEFITS ARE
34 PAYABLE TO THE ALTERNATE PAYEE PURSUANT TO A PLAN APPROVED DOMESTIC RELATIONS
35 ORDER, THE PLAN SHALL EITHER:

36 1. HOLD THE ALTERNATE PAYEE'S PORTION UNTIL SUCH A TIME AS THE
37 ALTERNATE PAYEE PROVIDES THE PLAN WITH A CURRENT ADDRESS.

38 2. PAY THE ALTERNATE PAYEE'S PORTION TO THE PARTICIPANT, WHO SHALL
39 HOLD THE ALTERNATE PAYEE'S PORTION IN TRUST AS PROVIDED IN SUBSECTION J,
40 UNTIL SUCH A TIME AS THE ALTERNATE PAYEE IS LOCATED. AT THAT TIME THE
41 PARTICIPANT SHALL PAY THE ALTERNATE PAYEE'S PORTION DIRECTLY TO THE ALTERNATE
42 PAYEE.

43 F. ONCE THE PLAN IS NOTIFIED OF THE ALTERNATE PAYEE'S CURRENT ADDRESS,
44 THE PLAN SHALL PROSPECTIVELY PAY THE ALTERNATE PAYEE'S PORTION TO THE
45 ALTERNATE PAYEE. IF THE ADDRESS OF A PARTICIPANT IS UNKNOWN TO THE PLAN, BUT

1 BENEFITS ARE PAYABLE TO THE PARTICIPANT PURSUANT TO A PLAN APPROVED DOMESTIC
2 RELATIONS ORDER, THE PLAN SHALL HOLD THE PARTICIPANT'S PORTION UNTIL THE
3 PARTICIPANT PROVIDES THE PLAN WITH A CURRENT ADDRESS.

4 G. IF THE ALTERNATE PAYEE IDENTIFIED IN A PLAN APPROVED DOMESTIC
5 RELATIONS ORDER PREDECEASES THE PARTICIPANT AND THE PLAN APPROVED DOMESTIC
6 RELATIONS ORDER DOES NOT OTHERWISE PROVIDE FOR THE DISPOSITION OF THE
7 ALTERNATE PAYEE'S INTEREST THE PLAN SHALL PAY THE ALTERNATE PAYEE'S PORTION
8 TO THE PERSONAL REPRESENTATIVE OF THE DECEASED ALTERNATE PAYEE PURSUANT TO
9 THIS SUBSECTION. THE PLAN IS NOT RESPONSIBLE FOR MAKING BENEFIT PAYMENTS TO
10 A PERSONAL REPRESENTATIVE UNTIL THE PERSONAL REPRESENTATIVE HAS:

11 1. PERSUADED THE PLAN THAT THE PERSONAL REPRESENTATIVE IS AUTHORIZED
12 TO RECEIVE PAYMENTS DESIGNATED FOR THE DECEASED ALTERNATE PAYEE.

13 2. PROVIDED THE PLAN WITH AN ADDRESS TO WHICH THE PAYMENTS SHOULD BE
14 SENT. THE PERSONAL REPRESENTATIVE IS RESPONSIBLE FOR MAINTAINING A CURRENT
15 MAILING ADDRESS ON FILE WITH THE PLAN. THE PLAN HAS NO DUTY TO ATTEMPT TO
16 LOCATE ANY PERSONAL REPRESENTATIVE.

17 H. IF, WITHIN THIRTY DAYS AFTER THE DATE THE PLAN VERIFIES AN
18 ALTERNATE PAYEE'S DEATH, A PERSONAL REPRESENTATIVE DOES NOT MAKE DEMAND ON
19 THE PLAN FOR THE ALTERNATE PAYEE'S PORTION, THE PLAN SHALL EITHER:

20 1. HOLD THE ALTERNATE PAYEE'S PORTION UNTIL THE TIME A PERSONAL
21 REPRESENTATIVE MAKES A PROPER DEMAND FOR PAYMENT OF THE ALTERNATE PAYEE'S
22 PORTION.

23 2. REMIT THE ALTERNATE PAYEE'S PORTION TO THE PARTICIPANT, WHO SHALL
24 HOLD THE AMOUNTS IN TRUST FOR THE ESTATE OF THE ALTERNATE PAYEE UNTIL THE
25 PERSONAL REPRESENTATIVE IS IDENTIFIED. AT THAT TIME THE PARTICIPANT SHALL
26 PAY THE ALTERNATE PAYEE'S PORTION PAID BY THE PLAN TO THE PARTICIPANT TO THE
27 PERSONAL REPRESENTATIVE.

28 THEREAFTER, THE PLAN SHALL PROSPECTIVELY PAY THE ALTERNATE PAYEE'S PORTION TO
29 THE PERSONAL REPRESENTATIVE.

30 I. AMOUNTS HELD OR PAID PURSUANT TO THIS SECTION SHALL NOT ACCRUE
31 INTEREST UNLESS OTHERWISE PRESCRIBED BY THIS ARTICLE.

32 J. THE PLAN IS NOT LIABLE TO THE PARTICIPANT, THE ALTERNATE PAYEE, ANY
33 PERSONAL REPRESENTATIVE OF THE ESTATE OF AN ALTERNATE PAYEE OR ANY OTHER
34 PERSON FOR ANY AMOUNT PAID, WITHHELD OR DISBURSED BY THE PLAN PURSUANT TO
35 THIS SECTION. IF ONE OR MORE PAYMENTS ARE MADE BY THE PLAN TO A PERSON NOT
36 OTHERWISE ENTITLED TO RECEIVE THE PAYMENTS, THE RECIPIENT OF THE PAYMENT IS
37 DESIGNATED A CONSTRUCTIVE TRUSTEE FOR THE PAYMENT RECEIVED AND, TOGETHER WITH
38 THE MARITAL COMMUNITY, IF ANY, IS THE SOLE PARTY AGAINST WHOM AN ACTION MAY
39 BE BROUGHT TO RECOVER THE PAYMENT.

40 K. THE PLAN MAY ADOPT POLICIES AND PROCEDURES THAT GOVERN THE
41 IMPLEMENTATION OF THIS SECTION.

1 Sec. 8. Conditional enactment

2 Section 38-881, Arizona Revised Statutes, as amended by Laws 2006,
3 chapter 264, section 14, chapter 308, section 2 and section 6 of this act,
4 becomes effective on the date prescribed in Laws 2005, chapter 324, section 2
5 but only on the occurrence of the condition prescribed by Laws 2005, chapter
6 324, section 2.