

Pension or Retirement Plan and Divorce



Are pension or retirement benefits marital property?

All retirement benefits that were contributed to during the marriage are considered marital property. This means that they should be divided by the court in a divorce case. Each spouse is typically entitled to 50% of the marital part of the retirement money. The marital part is often decided by dividing the number of years of the marriage by the number of years the account has been open. For example, if spouses have been married for five years and one spouse has contributed to a retirement plan for the past ten years, one-half is considered the marital part because you divide five years by ten years.



What do I need to bring to Court?

At the final divorce hearing, provide the Court with the following information:

1. Name and last known address for the plan participant (the spouse who worked at the job and contributed into the retirement plan)
2. Name and last known address for the alternate payee (the non-working spouse)
3. The Specific Plan Name (If you do not know this information, you should contact the Human Resources department where the working spouse is/was employed).

The Court may Order that the pension be divided or instead of dividing the pension or retirement plan itself, the Court may also decide to make a fair division by allowing one spouse to keep their retirement account in exchange for taking more marital debt or granting the spouse without the retirement plan more marital property.



The Court Ordered that the pension/retirement plan be divided. Now what?

If the Court Orders that the pension or retirement plan be divided between the spouses, you must have a separate Order drafted that divides the pension. The Court will NOT draft this separate Order for you. Examples include:

- QDRO: Qualified Domestic Relations Order is used to divide a private pension or retirement plan benefits.
- DOPO: Division of Property Order is used to divide an Ohio Public Retirement account.
- COAP: Court Order Acceptable for Processing is used to divide Federal Military Benefits.



Do NOT try to draft this Order on your own. Once you have your Divorce Decree, contact the **Mid-Ohio Pensions Rights Project at 1-800-488-6070**. They offer free services to draft your QDRO/DOPO/COAP.

Other Resources:

<https://www.proseniors.org/legal-services/pension-rights-project/>

<https://www.ohiobar.org/public-resources/commonly-asked-law-questions-results/family-relations/retirement-benefits-are-divided-at-divorce/>

<https://wiserwomen.org/category/resources/divorce-fact-sheets/>

**The information on this flyer is not legal advice.
If you are seeking representation or legal advice, please contact LASC or SEOLS.
An attorney-client relationship does not exist between you and LASC or SEOLS.**

Contact for Services: Intake line: 1-844-302-1800

www.columbuslegalaids.org

www.seols.org

LASC provides services in Central Ohio and has offices in Columbus and Marion.

SEOLS provides services in thirty-four counties in Southeastern Ohio and has offices in Athens, Chillicothe, New Philadelphia, Newark, Portsmouth, and Steubenville