



Introduction to QILDROs: Frequently Asked Questions for IMRF Members, Ex-Spouses / Alternate Payees and Attorneys

What is IMRF?

The Illinois Municipal Retirement Fund is one of the 13 reciprocal public pension systems in the State of Illinois. IMRF is a defined benefit plan [401(a)] and is governed by Article 7 of the Illinois Pension Code [40 ILCS 5/7-101 *et seq.*]. Unlike other public pension systems in Illinois, IMRF is locally funded by over 2900 participating employers (units of government such as cities, counties, villages, townships, etc.) across the state and by its members, who are employed at those units of government. IMRF is **not** funded by the State of Illinois.

What is a QILDRO?

QILDRO is an acronym for Qualified Illinois Domestic Relations Order; it is a court order issued by an Illinois court that directs an Illinois public retirement system such as IMRF to pay an alternate payee a portion of an IMRF member's retirement benefit, certain refunds, or lump sum death benefit. An alternate payee is typically an ex-spouse, but may be a child or other dependent. A QILDRO does **not** include Disability benefits.

It is important to note that a QILDRO is NOT a Qualified Domestic Relations Order (QDRO). IMRF does not accept QDROs. In addition, alterations to the QILDRO form or Calculation Order form are **NOT** permitted.

A QILDRO can only be entered by an Illinois court; out of state QILDROs are not acceptable.

A member, an alternate payee, or attorney should call IMRF at 1-800-275-4673 with any QILDRO questions before any QILDRO documents are signed and taken to court. Once a qualified QILDRO is filed with IMRF, we must honor it because it is a court order.

You may also mail or fax to 1-630-368-5397 a proposed copy of the QILDRO, and the Associate General Counsel will look at the QILDRO before you take it to court and have it certified. The Associate General Counsel will let you know if it is okay to be certified or if it needs corrections. However, the Associate General Counsel cannot give you any other kind of divorce information or legal advice.

IMRF has developed a booklet "Qualified Illinois Domestic Relations Orders – QILDRO Forms, Instructions and General Information" which includes detailed instructions for completing a QILDRO as well as the necessary forms.

Are civil unions subject to QILDROs?

Effective June 1, 2011, Public Act 96-1513 confers the rights of marriage available under Illinois Law to parties to a civil union. Therefore, the partner of a member who enters into a civil union has the same rights as a spouse of a married member. This Act also provides that civil unions legally entered into in another jurisdiction shall be recognized in Illinois as a civil union.

This legislation does not change the type or amount of benefits payable under the Pension Code; it merely expands the persons eligible to receive those benefits.

If a member with a civil union dissolves the union, just as in the case of divorce with a married couple, a QILDRO would need to be entered by an Illinois court in order for IMRF to divide the member's pension or other benefits.

What are the types of QILDROs?

There are two types of QILDROs – a **dollar amount QILDRO** or a **percentage amount QILDRO**.

- In a dollar amount QILDRO, the benefit – whether a separation refund, retirement pension or death benefit – is expressed as a flat dollar amount stated in the QILDRO itself. When the member takes a refund, retires, or dies, the ex-spouse / alternate payee receives a benefit amount once IMRF receives and processes all documentation.
- In a percentage QILDRO, the benefit – whether separation refund, retirement pension or death benefit – is expressed as a percentage amount in the QILDRO. When the member takes a refund, retires or dies, the ex-spouse / alternate payee must return to court to get a Calculation Order so that the court can certify a dollar amount payable to the ex-spouse / alternate payee. After IMRF receives the Calculation Order and any other documentation, IMRF can process the benefit for the ex-spouse / alternate payee.

A QILDRO can have all dollar amounts, all percentage amounts or have a combination of dollar and percentage amounts.

Do I still need a QILDRO, even though my divorce states that I am to receive pension benefits?

Even if your divorce decree states that the ex-spouse / alternate payee is to receive part of the member's pension or other benefit, **IMRF cannot pay the benefit without a QILDRO** (and Calculation Order when necessary) on file. Again, a QDRO is **NOT** acceptable.

If a member has already taken a full refund of contributions before IMRF receives a QILDRO, the QILDRO will not be honored as there is no benefit remaining to pay out to the ex-spouse / alternate payee. Members do not need permission from their spouse or ex-spouse to take a refund of their contributions.

Can I get a copy of my ex-spouse's IMRF records ?

Member records are confidential. The ex-spouse / alternate payee or attorney must send IMRF a subpoena with a \$20 fee or the member must give his / her written consent in order for IMRF to send a divorce estimate to anyone except the member. If a member signs a Consent to Issuance of QILDRO, that is acceptable as a consent form for a pension estimate for the ex-spouse. The ex-spouse / alternate payee or attorney must send IMRF the original consent.

How are IMRF pensions valued?

IMRF does not value a pension for divorce situations *. However, members can get a divorce estimate which gives amounts they would receive as a retirement pension given certain conditions and for separation refunds and lump sum death benefits. This divorce estimate is useful when planning and completing the QILDRO documents. Members can request a divorce estimate for no fee; the ex-spouse / alternate payee or attorney must send a consent signed by the member or the subpoena and \$20 fee.

In general, the value of the pension or other benefit increases as a member earns more service and higher wages.

* IMRF does give its members estimated values of their pension for retirement planning purposes and pension estimates. However, only when the member retires and receives a lifetime annuity can the member receive that value. Members can only receive their IMRF retirement benefits as a lifetime annuity; members **cannot** receive a lump sum payout of the value of their pension.

What fees are associated with processing a QILDRO?

- \$20 fee for a subpoena of a member's records (related to the divorce estimate); this fee is paid by member, alternate payee or attorney.
- \$50 fee for processing the QILDRO; this fee is paid by the member, alternate payee or attorney.
- \$50 fee for processing a Calculation Order for a percentage QILDRO; this fee is paid by member, alternate payee or attorney

As an alternate payee, when can I get my share of the benefit (pension, death benefit, refund)?

Note: An alternate payee cannot receive an IMRF benefit until the member receives their IMRF benefit. Even if the member is receiving a similar benefit (such as the alternate payee's pension), the alternate payee does not receive the IMRF benefit until the member files for the benefit.

For retirement: There is no mandatory age to retire. However, under current federal tax law and the Illinois Pension Code, IMRF is required to begin a member's pension once the member reaches age 70-1/2 if the member is no longer working for an IMRF employer or participating in a reciprocal retirement system. A member can take their pension as early as age 55, but with a reduction. If the unit of government that employs the member offers an Early Retirement Incentive, the member could retire as early as age 50, with at least 20 years of service credit.

For refund: the member must meet certain criteria to take a refund of their contributions; the most important of which is termination of employment. Interest and employer contributions are **not** included in a separation refund. (See also "Can a member make a withdrawal or take a refund of their IMRF contributions?" that follows.)

For death benefit: The benefit of the ex-spouse / alternate payee may be affected by the choice of a qualifying surviving spouse. For example, when a member dies while active in service, a qualifying current spouse could select a surviving spouse pension as their death benefit. In that case, the ex-spouse / alternate payee may only be eligible for all or part of the burial benefit of \$3,000, if so provided in the QILDRO. But if this current spouse selected a lump sum death benefit, the alternate payee would receive their portion of the death benefit (dollar or percentage amount, as provided in the QILDRO) and would take priority over other beneficiaries.

Once the QILDRO is filed, when is the Calculation Order necessary?

If the member is not receiving a benefit payment from IMRF, the ex-spouse / alternate payee does not yet need to file a Calculation Order. IMRF notifies the ex-spouse / alternate payee and the attorney of record of a qualifying event. (Note: It is important to keep IMRF informed of your current address. IMRF **must** have your current address to contact you, so please notify IMRF if you move.)

If the ex-spouse / alternate payee or attorney does not get the Calculation Order, the member or other interested party can get the order.

The Calculation Order specifies a dollar amount benefit based on the percentage amount in the QILDRO. The Calculation Order must be from an Illinois court.

Can a member make a withdrawal or take a refund of their IMRF contributions?

Since IMRF members cannot make partial withdrawals from their “account,” IMRF does not have a list of withdrawals a member made from his / her account. IMRF does have records when a member takes a **full** refund of contributions, without interest. To obtain a full refund, a member must meet these criteria:

- A member must terminate employment with their IMRF employer. Changing positions at the same employer is not the same as terminating employment.
- The member must be less than 55 years old.
- If the member is 55 or older and qualifies for a pension of \$30 or more, the member cannot take a refund of contributions. (Exception: The member can receive a refund if they roll it over into another defined benefit retirement plan to purchase qualifying service credit.)

If a member takes a full refund of contributions, they give up their rights to a pension. Employer contributions are **not** returned with member refunds. **The employer contributions remain with IMRF to help fund the pensions of the other employees of that same employer.**

If a member has already taken a full refund of contributions before IMRF receives a QILDRO, the QILDRO will not be honored as there is no benefit remaining to pay out to the member. Members do not need permission from their spouse or ex-spouse to take a refund of their contributions.

Can a member reinstate contributions after taking a refund?

It is possible for a member to receive a refund of IMRF contributions and return to work for the same or another IMRF employer at a later date. After a two-year waiting period, the member may repurchase their service so long as they are still working for an IMRF employer or one of the Illinois public pension reciprocal systems.

What about a surviving spouse pension and a QILDRO?

A surviving spouse pension and a QILDRO are different.

- A QILDRO retirement benefit ends at either the member’s or alternate payee’s death.
- A QILDRO death benefit may be payable at the member’s death.
- A surviving spouse pension can be paid to a **“qualified”** spouse upon the member’s death and the termination of the QILDRO.

Generally speaking, to receive a surviving spouse pension, an ex-spouse must have been married to an IMRF member for at least one year before he / she terminated IMRF employment and still be

married to him / her on the effective date of the retirement. (This makes the ex-spouse a “**qualified**” spouse.) **IMRF cannot change the requirements for receiving an IMRF surviving spouse pension.** The eligibility requirements are found in the Illinois Pension Code which governs IMRF.

Can a QILDRO be “backdated?” When exactly does a QILDRO become effective?

It may be helpful to explain when a QILDRO becomes effective and when a retirement benefit becomes effective.

- A QILDRO Effective Date – the date a QILDRO is “on file” at IMRF – occurs when a valid certified QILDRO form, accompanying fee and consent, when necessary, are received at IMRF. Note: IMRF has 45 days to process the filing of the QILDRO. An alternate payee can only be paid a retirement benefit on a prospective (going forward) basis as of the QILDRO Effective Date.
 - If the valid QILDRO Effective Date is after the member's Benefit Effective Date for retirement, the alternate payee is only paid from the QILDRO Effective Date.
 - If the valid QILDRO Effective date is before the member's Benefit Effective Date for retirement, the alternate payee is paid from the member's Benefit Effective Date for retirement.

Reminder: The alternate payee's retirement benefit for a valid percentage amount QILDRO can only be paid after a valid Calculation Order is received.

- The member's Retirement Benefit Effective Date occurs after the member submits their retirement application, is terminated by their IMRF employer(s), and the retirement application is approved.

An exception to this rule could apply if the member has been **inactive** with the IMRF employer, and files a retirement application and is eligible to backdate their retirement for a period of time up to 12 months.

If the QILDRO Effective Date is on or during this 12-month “backdating” of the retirement (the backdated Benefit Effective Date for retirement), the alternate payee retirement benefit could be “backdated” to the QILDRO Effective Date. This can occur on a date up to the 12-month period allowed for the member to “backdate” their Benefit Effective Date for retirement.

However, if the member is terminated or inactive with IMRF, but is **also** active with a reciprocal system **and** is retiring under the Reciprocal Act, the member might not be able to backdate their IMRF Benefit Effective Date for retirement. In this case, as long as there is a valid QILDRO Effective Date, the alternate payee would be paid the QILDRO retirement benefit as of the member's IMRF Benefit Effective Date for retirement.

Can a QILDRO be changed or terminated?

A QILDRO is terminated when a QILDRO amount has been paid in full* or when the member or ex-spouse / alternate payee is deceased and there is no QILDRO death benefit. A QILDRO may also be terminated by a valid court order expressly terminating all values of the QILDRO.

A certified court order terminating the **entire** QILDRO is sufficient. If you send a court order specifically terminating the monthly benefit and the QILDRO also has refund provisions, you will need to send another court order if you want to terminate the refund and other provisions, if any, of the QILDRO.

IMRF also accepts amended certified QILDROs with \$0 for specified benefit amounts, which effectively terminates the earlier QILDRO (for the same ex-spouse / alternate payee only). A \$50 fee is also required. The \$0 amounts for a specified benefit in the Amended QILDRO must correspond to the same specified benefit in the original QILDRO.

•Note: A QILDRO amount is paid in full when the member and ex-spouse / alternate payee receive their portions of a benefit. For example, after a separation refund is paid to a member and the ex-spouse / alternate payee, the QILDRO would be terminated, even if the QILDRO had a retirement benefit. If, after taking the separation refund, the member returned to work for another IMRF employer, a new QILDRO would be needed for any benefits from this subsequent employment period.

What about taxes and QILDRO benefits?

The member and an ex-spouse / alternate payee are each responsible for the taxes on an IMRF benefit. If the alternate payee is a dependent, for example, a child, the member is responsible for the taxes on the child's benefit on a retirement or refund claim. For a death benefit, a dependent alternate payee must pay the mandatory federal withholding.

Please note that currently U.S. federal law does **not** recognize civil unions. Therefore, the federal tax treatment may be different for a QILDRO resulting from the dissolution of a civil union.

What if the member has reciprocal service?

Although the law that governs QILDROs applies to other Illinois public retirement systems (such as the State Teachers' Retirement System or State Employees' Retirement System), IMRF can only provide information about its own benefits. You must contact the other reciprocal systems for information or estimates from their system. Likewise, IMRF can only process the member's IMRF QILDRO benefits and not the member's benefits from reciprocal systems.

My ex-spouse says that with a QILDRO he/she can take my IMRF contributions in my account. Is that true?

An ex-spouse / alternate payee **cannot** "raid" or "empty out" a member's IMRF contributions on file at IMRF.

Unlike a QDRO (Qualified Domestic Relations Order), an alternate payee can only receive payment if and when the IMRF member receives payment – in other words, the member must apply for and receive a benefit before any payment can be made to an alternate payee.

In order for the alternate payee to receive a benefit, there **must be a valid QILDRO on file with IMRF** that gives either a dollar amount or a percentage amount of the member's benefit **AND the member must file, be eligible and be approved to receive a benefit.** A benefit can be a retirement, refund or death benefit, as specified in the QILDRO. If the QILDRO benefit amount is expressed in percentages, as opposed to dollar amounts, the ex-spouse / alternate payee (or other party) **must** get a calculation court order before the benefit can be paid.

In a similar light, a member cannot borrow against nor make a withdrawal of their own IMRF contributions. The full amount of a member's contributions **MUST** remain on file at IMRF until they are paid out as a benefit, i.e, a retirement pension, a refund or a death benefit.

My ex-spouse and I have a disabled child. Can our disabled child receive a QILDRO benefit instead of my ex-spouse?

A QILDRO does not require that an alternate payee be the ex-spouse, even though it usually is. Your child – disabled or not – can be an alternate payee for QILDRO benefits.

The QILDRO works the same for any alternate payee --- the alternate payee can specify a refund, retirement or death benefit in either a dollar amount or a percentage amount. If the QILDRO has percentage amounts, the alternate payee must get a Calculation Court Order in order to receive their benefit.

It is important to note that it **is** possible for an ex-spouse to qualify to receive a surviving spouse pension, but it **is never** possible for a child or other “non-ex-spouse” alternate payee to receive a surviving spouse pension.

Also, if your disabled child is the alternate payee, you may want to consult your personal attorney about the legal and tax implications of receiving such a benefit.

My ex-spouse – who is receiving an IMRF pension – says he/she lost a lot of their investments and needs to go back to work. My ex-spouse also says that returning to work for an IMRF employer stops the member’s IMRF pension.

What will this do to my retirement benefit as the alternate payee?

Any IMRF member who returns to work for an IMRF employer after retirement (and /or possibly a reciprocal employer) must contact IMRF directly before returning to work to determine how this would affect their benefits. This is extremely important.

If the member does indeed return to work in an IMRF participating position, the member's pension is suspended, and therefore the alternate payee's retirement benefit also ceases.

When the member again retires, the pension payments resume, with an additional benefit for the return-to-work period. If the alternate payee believes they are entitled to a share of the additional pension, the alternate payee would have to get a new QILDRO and Calculation Order, if necessary. Otherwise, the alternate payee’s benefit will resume at the previous level.

What else is important to know about QILDROs?

IMRF cannot pay out a benefit on a percentage QILDRO without a qualified QILDRO Calculation Court Order on file.

Because the QILDRO or Calculation Order states a dollar amount “per month,” the alternate payee does not receive any part of the member’s 13th (supplemental) payment.

Valid QILDROs will be honored in the order in which they are received at IMRF.