

THE QDRO PROCESS STEPS

We are frequently asked questions about the QDRO process and the various steps involved. Those steps typically include:

1. **Final Judgment:** The divorcing parties divorce or legally separate and a Judgment of Divorce or Judgment of Separate Maintenance is submitted in final form to the court. The QDRO is typically entered with the Judgment or shortly after the final Judgment is entered.
2. **Drafting the QDRO:** This is our responsibility and our area of expertise. You complete our Request Form and send it, the Judgment/proposed Judgment and payment for the QDRO. We custom draft the QDRO to conform to the Judgment or proposed Judgment, the Request Form and the retirement plan. Generally, we prepare a draft of a proposed QDRO within one to two weeks of receiving all necessary information. For an additional fee, we can draft the proposed QDRO within three business days.
3. **Pre-Approving the QDRO:** We submit the draft QDRO to the retirement plan. The retirement plan reviews the draft proposed QDRO to determine whether it will be acceptable as a valid QDRO or whether the plan requires revisions before the QDRO will be acceptable. This process can take the retirement plan or its QDRO reviewer anywhere from a few weeks to several months. If we are informed that the QDRO requires revisions, we will revise the QDRO at no additional charge. If we are unable to obtain approval of a QDRO we draft, you will receive a complete refund
4. **Signatures:** If acceptable, the draft QDRO is signed by the divorcing parties and their attorneys, if any. If only one party retains us, we provide a transmittal letter for submitting the proposed QDRO to the opposing side.
5. **Court Entry/Judge's Signature:** The draft proposed QDRO is entered with the court. Court entry is evidenced by the dated signature of the Judge or a stamp. An original copy with the Judge's signature is sometimes referred to as a "true copy." Generally, a Judge will sign any draft proposed QDRO that has been signed by both parties and their attorneys. If the proposed QDRO has been signed by only one party, the court will typically delay court entry until it is convinced that the proposed QDRO is appropriate and consistent with the Judgment or any applicable Settlement Agreement.

Court entry of the QDROs is the responsibility of the divorcing parties or their divorce attorneys, if any. Please note that all QDROs entered with the court are matters of public record. Accordingly, to protect against identity theft, never enter the Addendum which accompanies the QDRO and contains the divorcing parties' dates of birth and social security numbers with the court.

6. **Submission:** A true copy of the proposed QDRO and Addendum is submitted to the retirement plan by one of the divorcing parties or one of their attorneys. We provide a transmittal letter for submitting the court-certified QDRO to the retirement plan.
7. **Implementation:** The QDRO is implemented by the retirement plan. In some cases, particularly for 401(k) plans, the alternate payee/non-participant spouse may receive an immediate distribution after completing any forms required by the retirement plan. In other cases, particularly for defined benefit pensions, the alternate payee/non-participant must wait until the participant attains the retirement plan's earliest retirement age or actually retires depending on the QDRO and the retirement plan's rules.

Some retirement plans will not pre-approve a draft QDRO (Step 3). For those plans, the steps occur in the same order as above without Step 3. If the plan has objections to the draft QDRO after it is submitted to the plan (Step 6), we will revise the QDRO at no additional charge and the revised, amended QDRO must be entered with the court and resubmitted to the plan.

When to Prepare the QDRO

We believe that the best practice is to prepare the QDRO and enter it concurrently with the Judgment of Divorce but acknowledge that this is not always feasible. For more information on timing considerations, please see our article entitled "*Timing Considerations and Malpractice Traps*" which is available on our website at <http://WWW.QDRO.PRO/>.

This article is not a substitute for legal advice. If you need legal advice, please contact Jon Mallin at 248.865.4700 x 281 or by e-mail at JON@QDRO.PRO.