The Four Issues to Address When Dividing a Massachusetts Public Pension in Divorce

1. **Decide whether to share the future monthly pension benefits as they are paid out after retirement (most common), or buy the other person out right now (much less common)**

Share the Monthly Benefits Later, at Retirement (more common)
No money exchanges hands at the time of divorce, but the separation agreement (and subsequent QDRO) spell out *how* the monthly pension benefits will be shared at retirement. See #2.

Buy out the other person's share of the pension right now (much less common)
Do an actuarial calculation to get a present value, and then offset the value with other assets (typically house equity or other retirement accounts). Most people do not have an asset big enough to offset the pension, and buy the other person out of their share of it.

2. **Decide on a formula, including marital coverture ratio, for sharing the pension. Massachusetts allows a very wide range of calculation methods for "sharing a pension equally" with very different outcomes for the ex-spouses!**

"Bright Line" or "Accrued" method
The benefit is based on the a) years of service, b) salary, and c) participant's age *at the time of divorce.* These three factors are "frozen" at the time of divorce, and these "frozen" numbers are used for all calculations. This method tends to give less of the future monthly benefit to the alternate payee.

Intermediate methods
These methods mix "time of divorce" and "time of retirement" factors. So a method might use
a) years of service and b) salary at *time of divorce* and c) participant's age *at the time of retirement*.

"Projected" or "Relative Time" method
The benefit is based on the a) years of service, b) salary, and c) participant's age *at the time of retirement*, but the alternate payee gets a smaller fraction of it. With this method, the alternate payee gets a smaller piece of a bigger pie.

Coverture ratio is the percentage of a pension's value that was earned during marriage.
When using the "bright line" formula, the coverture ratio is typically "years of service earned during the marriage" divided by "total years of service as of the *divorce* date". The intermediate methods can use date of *divorce* or date of *retirement*, but many MA cases use date of *divorce* when frozen years of service and frozen salary are combined with age at *retirement.*

Coverture ratio is the percentage of a pension's value that was earned during marriage.
When using the "relative time" formula, the coverture ratio is typically "years of service earned during the marriage" divided by "total years of service as of the retirement date".

3. **Choose an option for post-retirement death benefits. At retirement, a pension participant can choose from among 3 options for death benefits for a beneficiary. Your separation agreement can fix which option the participant must choose. If your separation agreement doesn't mention this, the pension participant can choose whichever option they like.**

Option A:
No death benefit, and the monthly benefit is the highest possible.

Option B:
Relatively small cash death benefit for the first 12 years after retirement with flexibility in choosing a beneficiary. The monthly benefit is reduced by 1-5% relative to an Option A benefit.

Option C:
This option gives a life time benefit equal to 2/3 of what the benefit was while the participant was alive. Potentially a very, very large benefit. The beneficiary can only be a spouse, unmarried ex-spouse, parent, sibling, or child. Option C reduces the monthly benefit, relative to Option A, by about 10% if the beneficiary is a similar-aged spouse, and about 23% if the beneficiary is a child who is 35 years younger than the participant.

4. **Choose an option for *pre*-retirement death benefits. If your separation agreement does not mention this, the pension participant can choose no beneficiary or any beneficiary the plan allows.**

12(2)d Member Survivor Benefit

This only applies if a pension participant dies before retiring. A pension participant can choose a beneficiary (spouse, unmarried ex-spouse, parent, sibling, or child) to receive 2/3 of the benefit that the participant would have received if they had retired on the date of their death. This is potentially a very large benefit for the beneficiary. This is like a pre-retirement version of Option C, above. It is often referred to as a 12(2)d benefit or beneficiary.

11(2)c Lump Sum Benefit

This only applies if a pension participant dies before retiring. This is like a pre-retirement version of Option B, above. It provides a lump sum to a beneficiary (or multiple beneficiaries, including contingent ones), and there are not limits on who the beneficiary can be. It only applies if there is no 12(2) d beneficiary. It is often referred to as an 11(2)c benefit or beneficiary.