

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 129

By: Senator Hickey
By: Representative Maddox

For An Act To Be Entitled

AN ACT TO AMEND THE STATE POLICE RETIREMENT SYSTEM PLAN REGARDING SURVIVOR BENEFITS; TO PROVIDE FOR THE PROPER ADMINISTRATION OF SURVIVOR BENEFITS UNDER THE STATE POLICE RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE STATE POLICE RETIREMENT SYSTEM PLAN REGARDING SURVIVOR BENEFITS; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 24-6-217 is amended to read as follows:

24-6-217. Benefits – ~~Survivor's pension upon death of member~~ Death before retirement.

(a)(1) ~~In the case of a member who dies on or after January 1, 1956, and leaves a spouse~~ A member's surviving spouse who has the care of the member's dependent child or children, ~~the surviving spouse~~ shall receive a pension equal to the greater of one thousand eight hundred dollars (\$1,800) per annum or seventy-five percent (75%) of the pension to which the member would have been entitled had he or she retired the day preceding the date of his or her death, ~~notwithstanding that~~ even if the member ~~might~~ was not ~~have been~~ eligible to retire.

(2) When the surviving spouse no longer has the care of the dependent child, the pension shall be reduced to the greater of one thousand



two hundred dollars (\$1,200) per annum or fifty percent (50%) of the pension to which the member would have been entitled had he or she retired the day preceding the date of his or her death, ~~notwithstanding that~~ even if the member ~~might was~~ was not have been eligible to retire.

(3) Upon the surviving spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(b)(1) ~~In the case of a member who dies on or after January 1, 1956, and leaves a~~ A member's surviving spouse who does not have in his or her care the member's dependent child or children, ~~the surviving spouse~~ shall receive a pension equal to the greater of one thousand two hundred dollars (\$1,200) per annum or fifty percent (50%) of the pension to which the member would have been entitled had he or she retired the day preceding the date of his or her death, ~~notwithstanding that~~ even if the member ~~might was~~ was not have been eligible to retire.

(2) Upon the surviving spouse's remarriage or death, the pension provided for in this subsection shall terminate.

(c)(1) ~~In the event~~ If a member dies and does not leave a spouse, or ~~in the event~~ the surviving spouse remarries or dies and there is a surviving ~~the member a~~ dependent child or children of the member, each such child shall receive a pension of an equal share of the greater of one thousand eight hundred dollars (\$1,800) per annum or seventy-five percent (75%) of the pension to which the member would have been entitled had he or she retired the day preceding the date of his or her death, ~~notwithstanding that~~ even if ~~he or she~~ the member ~~might was~~ was not have been eligible to retire.

(2) ~~In no case shall the~~ The annual pension payable to any such child shall not exceed fifteen percent (15%) of the final average annual salary of the deceased member.

(d)(1) In the event a member who has five (5) or more years of credited service in the system dies and leaves neither a spouse nor children eligible for pensions provided for in subsections (a)-(c) of this section, and there is surviving the member his or her parents, whom are the board finds to be claimed as dependent upon the ~~member~~ member's federal tax return for not less than one (1) year immediately preceding the member's death ~~for at least fifty percent (50%) of their support due to lack of financial means,~~ each dependent parent shall receive a pension of an equal share of fifty percent (50%) of the pension to which the member would have been entitled had

he or she retired the day preceding the date of ~~his or her~~ the member's death, ~~notwithstanding that~~ even if the member ~~might~~ was not have been eligible to retire.

(2) Upon the remarriage or death of the parent, his or her pension shall terminate.

(e)(1)(A) A child ~~shall be~~ is a dependent child for purposes of receiving a survivor's annuity until ~~his or her~~ the child's death, ~~his or her~~ marriage, or ~~his or her~~ attainment of ~~age eighteen (18)~~ eighteen (18) years of age, whichever occurs first.

(B)(i) However, the age-eighteen maximum shall be extended as long as the child is continuously enrolled as a full-time student at an accredited secondary school or accredited postsecondary institution of higher education, but in no event beyond his or her attainment of ~~age twenty-three (23)~~ twenty-three (23) years of age.

(ii) The ~~eighteen-year~~ age-eighteen maximum shall also be extended for any child who has been deemed physically or mentally incompetent by a court with jurisdiction over the individual or by the board, for as long as the incompetency exists.

(2) Once a child ceases to be a dependent child, his or her annuity shall terminate and there shall be a redetermination of the amount payable to any remaining dependent children.

(3) The board is authorized to establish through rules a means of verification of ~~enrollment in a secondary school or postsecondary institution of higher education~~ by a surviving dependent child under this section for purposes of pension benefits.

(f)(1) If a surviving spouse who is receiving survivor's benefits under this section remarries, and the benefits are discontinued, and the surviving spouse again becomes unmarried, benefits provided in this section for the spouse shall be resumed.

(2) Benefits shall be resumed for any surviving spouse who had remarried but is unmarried on that date, but no such benefits will be paid the surviving spouse for any period prior to July 1, 1991.

(g)(1) If the member is killed while in the official line of duty and the surviving spouse is eligible for a deferred benefit under this section, the surviving spouse may elect to receive a reduced benefit beginning immediately.

(2) The reduction of the benefit otherwise defined in this section shall be:

(A) Five-tenths of one percent (0.5%) per month for each of the first sixty (60) months that the benefit begins before it would have otherwise begun; plus

(B) Twenty-five hundredths of one percent (0.25%) per month for each month more than sixty (60) months that the benefit begins before it would have otherwise begun.

(3) However, the total reduction under this subsection shall not be more than fifty percent (50%).

(4) Those who otherwise would have been eligible for this benefit on or after July 1, 2002, may also elect this reduced benefit prospectively.

SECTION 2. Arkansas Code § 24-6-408 is amended to read as follows:
 24-6-408. Benefit provisions – Election of annuity options.

(a) ~~Before the date the first payment of his or her annuity becomes due, but not thereafter,~~ a A member may elect to receive his or her annuity as a straight life annuity or ~~he or she may~~ elect to have ~~his or her~~ that annuity reduced and ~~nominate~~ designate a beneficiary in writing and file the elections with the system in accordance with the provisions of before that annuity starting date under one (1) of the following options:

(1) Option A60 – Sixty (60) Months Certain and Life Annuity.

(A) Under Option A60, the retirant shall be paid a reduced annuity for life with the provisions that if the retirant’s death occurs before sixty (60) monthly payments have been made, then the full reduced annuity shall continue to be paid for the remainder of the sixty (60) months to such persons and in such shares as the retirant ~~shall have~~ has designated ~~in writing and filed with the plan.~~

(B) If there is no ~~payee~~ beneficiary surviving, the lump-sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated ~~persons~~ beneficiary.

(C) The reduced annuity shall be ninety-six percent (96%) of the straight life annuity;

(2) Option A120 – One Hundred Twenty (120) Monthly Certain and

Life Annuity.

(A) Under Option A120, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before one hundred twenty (120) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the one hundred twenty (120) months to such persons and in such shares as the retirant ~~shall have~~ has designated ~~in writing and filed with the plan.~~

(B) If there is no ~~payee~~ beneficiary surviving, the lump-sum actuarial equivalent of the remaining monthly payment shall be paid to the estate of the last survivor among the retirant and the designated ~~persons~~ beneficiary.

(C) The reduced annuity shall be ninety percent (90%) of the straight life annuity;

(3) Option B50 – Fifty Percent (50%) Survivor Beneficiary Annuity.

(A)(i) Under Option B50, the retirant shall be paid a reduced annuity for life ~~with the provision that,~~ and upon ~~his or her~~ the retirant's death, one-half ($\frac{1}{2}$) of the reduced annuity shall ~~be continued~~ continue throughout the future lifetime of and paid to such person as the retirant ~~shall have~~ has designated ~~in writing and filed with the plan before his or her annuity starting date.~~

(ii) ~~However, that person must be~~ The member may elect either his:

(a) His or her spouse, to whom the member has been married for not less than ~~one (1) year~~ six (6) months immediately preceding the first payment due date; ~~or another person~~

(b) A dependent child aged ~~forty (40)~~ forty (40) years of age or older ~~receiving~~ who is claimed as a dependent upon the member's federal tax return ~~more than one-half ($\frac{1}{2}$) support from the retirant~~ for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be eighty-three percent (83%) if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by one-half percent (0.5%) for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by one-half percent (0.5%), up to

a maximum of ninety-five percent (95%), for each year that the beneficiary's age is more than the retirant's age.

(C) If the named beneficiary under Option B50 predeceases the retirant, the original unreduced benefit shall be paid to the retirant prospectively;

(4) Option B75 – Seventy-Five Percent (75%) Survivor Beneficiary Annuity.

(A)(i) Under Option B75, the retirant shall be paid a reduced annuity for life ~~with the provision that, and~~ upon his or her the retirant's death, ~~three-quarters~~ three-fourths ($\frac{3}{4}$) of the reduced annuity shall be continued throughout the future lifetime of and paid to such person as the retirant ~~shall have~~ has designated in writing and filed with the plan before his or her annuity starting date; ~~however, that person must be~~

(ii) The member may elect either: his

(a) His or her spouse to whom the member has been married for not less than ~~one (1) year~~ six (6) months immediately preceding the first payment due date; ~~or another person~~

(b) A dependent child aged forty (40) forty (40) years of age or older receiving more than one-half ($\frac{1}{2}$) support from the retirant who is claimed as a dependent upon the retirant's federal tax return for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be seventy-five percent (75%) if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by three-quarters percent (0.75%) for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by three-quarters percent (0.75%), up to a maximum of ninety percent (90%), for each year that the beneficiary's age is more than the retirant's age.

(C) If the named beneficiary under Option B75 predeceases the retirant, the original unreduced benefit shall be paid to the retirant prospectively.

(b)(1)(A) The member may elect to cancel the designation of a beneficiary under Option B50 or Option B75 in writing and file the election with the system upon the:

(i) A death Death of a spouse; or ~~divorcee~~

(ii) Divorce or other marriage dissolution from the member's spouse; or ~~the death~~

(iii) Death of a person the member's dependent child who is forty (40) years of age or older and who is the designated as a beneficiary under ~~Option B50 or Option B75 following retirement shall cancel,~~ at the written election of the retirant, ~~Option B50 or Option B75 elected at retirement to provide continuing lifetime benefits to the designated person and~~ § 24-6-408(a).

(B) The member's election under subsection (b) of this section shall return the retirant to ~~this~~ his or her straight life annuity, or the member may elect Option A60 or Option A120 annuity, to be effective the month following receipt by the system of his or her election ~~by the State Police Retirement System.~~

(2) A retirant who is receiving a straight life or Option A60 or Option A120 annuity and who marries after retirement or within ~~one (1) year~~ six (6) months immediately preceding retirement may elect to cancel his or her straight life, ~~or~~ Option A60, or Option A120 annuity and may elect Option B50 or Option B75 ~~providing to provide~~ continuing lifetime benefits to his or her spouse, ~~but only~~ if the election is:

(A) Submitted on a form approved by the system; and ~~is received~~

(B) Received by the system ~~not no~~ no earlier than ~~one (1) year~~ six (6) months after the date of the marriage and ~~not no~~ no later than ~~eighteen (18) months~~ one (1) year after that date.

(3) The election shall be effective the first day of the month following its receipt.

(c) If a member fails to elect an option, his or her annuity shall be paid to him or her as a straight life annuity.

SECTION 3. Arkansas Code § 24-6-411 is amended to read as follows:
 24-6-411. Benefit provisions – Death before retirement.

(a) If an active member with five (5) or more years of actual service, including service for the year immediately preceding his or her death, dies in employer service before retirement, the applicable benefit provided in this section shall be ~~paid~~ allowed upon the survivor's written application ~~to~~ filed with the ~~Board of Trustees of the State Police Retirement System~~

system.

(b)(1)(A) ~~In the event that~~ If a member dies and is not being paid on that date by his or her employer due solely to illness incurred before he or she left the payroll and the death occurs within one (1) year of the last payroll, the member shall be considered, for purposes of this section, to have died as an active member if all other necessary provisions of this section are met.

(B) ~~For purposes of computing~~ To compute benefits provided by this section, the deceased member's salary at the time of death shall be his or her salary for the year immediately preceding the cessation of his or her pay.

(2)(A) If an active member with five (5) or more years of actual service does not have credited service for the year immediately preceding death due to illness which eventually leads to his or her death or due to his or her employer's removing the member from the payroll because of temporary economic conditions of the employer or weather conditions, the active member shall be considered, only for eligibility purposes of the section, to have credited service for the year preceding death.

(B) Benefits shall be paid according to the salary earned during the year preceding death.

(c)(1) The deceased member's surviving spouse who was married to the member for at least six (6) months immediately preceding the member's death shall receive an annuity computed in the same manner in all respects as if the member had ~~retired;~~

(A) Retired on the date of his or her death with entitlement to an annuity provided for in § 24-6-406, ~~elected;~~

(B) Elected the Option B75 survivor annuity provided for in § 24-6-408, ~~and nominated; and~~

(C) Designated his or her spouse as joint beneficiary.

(2)(A) If the deceased member has satisfied the age and service requirement provided for in § 24-6-404 or had acquired twenty (20) years' actual service, then the ~~spouse~~ spousal annuity shall ~~commence immediately~~ and be payable for ~~his or her~~ life.

(B)(i) If the member had acquired fifteen (15) years' actual service, but had not attained ~~age sixty-five (65)~~ sixty-five (65) years of age, the ~~spouse~~ spousal annuity shall commence at the later of

either ~~age fifty (50)~~ fifty (50) years of age or his or her age at his or her death and shall be payable until the earlier of his or her remarriage or death.

(ii) Otherwise, the ~~spouse~~ spousal annuity shall commence at the later of either ~~age sixty-two (62)~~ sixty-two (62) years of age or his or her age at his or her death and shall be payable until the earlier of either his or her remarriage or death.

(3) The ~~spouse~~ spousal annuity shall not be less than ten percent (10%) of the deceased member's covered compensation at the time of death.

(4) ~~In any event,~~ For as long as the surviving spouse has in his or her care any of the deceased member's dependent children ~~receiving who~~ receive a benefit provided for in this section, there shall be payable to him or her a ~~spouse~~ spousal annuity which shall not be less than ten percent (10%) of the deceased member's compensation at the time of death.

(d)(1) The deceased member's dependent child or dependent children shall each receive an annuity of the greater of either:

(A) ~~ten~~ Ten percent (10%) of the member's covered compensation at the time of death; or

(B) ~~an~~ An equal share of one hundred fifty dollars (\$150) monthly.

(2) If there are three (3) or more dependent children, each dependent child shall receive as an annuity an equal share of the greater of:

(A) ~~either~~ Either twenty-five percent (25%) of the member's covered compensation; or

(B) ~~one~~ One hundred fifty dollars (\$150) monthly.

(3)(A) A child ~~shall be~~ is considered a dependent child as used in subdivision (d)(1) of this section and for purposes of receiving a survivor's annuity until ~~his or her~~ the child's death, ~~his or her~~ marriage, or ~~his or her~~ attainment of ~~age eighteen (18)~~ eighteen (18) years of age, whichever occurs first.

(B)(i) However, the age-eighteen maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school, college, or university but in no event beyond his or her attainment of ~~age twenty-three (23)~~ twenty-three (23) years of age.

(ii) The age-eighteen maximum shall ~~also~~ be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction or by the ~~board~~ Board of Trustees of the State Police Retirement System for as long as the incompetency exists.

~~(4) Upon a child's ceasing~~ Once a child ceases to be a dependent child, his or her annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(e)(1) If at the time of the member's death there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of either ten percent (10%) of the deceased member's covered compensation or an equal share of one hundred fifty dollars (\$150) monthly, ~~but only if the board finds that the parent was dependent for at least fifty percent (50%) of his or her financial support upon the member.~~

(2) A dependent parent eligible for a survivor benefit under this section shall have been claimed as dependent upon the deceased member's or former member's federal tax return for not less than one (1) year immediately preceding the member's death.

(f)(1) If no annuity can become payable to a dependent child due to the member's death ~~of the member, and a~~ the surviving spouse or dependent parents may elect to receive a refund of the member's or former member's accumulated contributions as provided in § 24-6-222 in lieu of any benefits which could become payable under this plan if the:

(A) Surviving spouse or dependent parents are the only persons who will be eligible for monthly benefits; ~~and the~~

(B) Surviving spouse or dependent parents are also the designated beneficiaries of the deceased member, ~~then, in that event, the surviving spouse or dependent parent may elect to receive a refund of the member's accumulated contributions in lieu of any benefits which could become payable under this subchapter.~~

(2) The option to choose a refund of the deceased member's contribution shall also be afforded to any spouse or dependent parent qualified under this section whose eligibility for the benefit occurred before the passage of this chapter and who could not exercise that option.

(3) ~~Once the~~ A refund of the deceased member's accumulated contributions ~~has been~~ made to the surviving spouse or dependent parents under this subsection, ~~the recipient shall have no~~ precludes any right or

future claim to monthly retirement benefits due to the death of the member.

(g)(1) In the event all the annuities provided for in this section payable on account of the member's death ~~of a member~~ terminate before there has been paid an aggregate amount equal to his or her accumulated contributions standing to his or her credit in the member's deposit account at the time of his or her death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as he or she shall have nominated by written designation duly executed and filed with the ~~board~~ system.

(2) If there is no designated person surviving a termination, the difference shall be paid to the member's estate.

(h)(1) ~~In the case of a~~ A surviving spouse of a deceased member ~~who had benefits whose benefits were~~ terminated due to remarriage under the provisions of this section, ~~the surviving spouse of the member~~ shall be entitled to a reinstatement of benefits upon the death of any subsequent spouse.

(2) The reinstated benefits shall cease immediately upon the ~~death or~~ subsequent remarriage or death of the surviving spouse of the deceased member.

(i)(1) If the member is killed while in the official line of duty and the surviving spouse is eligible for a deferred benefit under this section, the surviving spouse may elect to receive a reduced benefit beginning immediately.

(2) The reduction of the benefit otherwise defined in this section shall be:

(A) Five-tenths of one percent (0.5%) per month for each of the first sixty (60) months that the benefit begins before it would have otherwise begun; plus

(B) Twenty-five hundredths of one percent (0.25%) per month for each month more than sixty (60) months that the benefit begins before it would have otherwise begun.

(3) However, the total reduction under this subsection shall not be more than fifty percent (50%).

(4) Those who otherwise would have been eligible for this benefit on or after July 1, 2002, may also elect this reduced benefit prospectively.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas State Police Retirement System law are in need of revision and updating to maintain the retirement laws in conformance with sound public pension policy; that the Arkansas State Police Retirement System operates on a fiscal year of July 1 to June 30; that having a July 1, 2023 effective date is necessary to allow the provisions within this act to begin on the first day of the fiscal year to provide proper administration of the procedures herein; that such revisions and updating are of great importance for actuarial purposes and to protect the benefits to members of the Arkansas State Police Retirement System; and that it is necessary for this act to have a July 1, 2023 effective date in order to maintain an orderly system of benefits for the members of Arkansas State Police Retirement System. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2023.

APPROVED: 3/9/23