

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

SENATE BILL 115

By: Senator K. Hammer  
By: Representative Warren

## For An Act To Be Entitled

AN ACT TO AMEND AND UPDATE THE LAW CONCERNING SURVIVOR ANNUITY BENEFITS UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO CLARIFY SURVIVOR APPLICATION DEADLINES UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO CLARIFY A DEPENDENT CHILD'S ABILITY TO RECEIVE A DEPENDENT CHILD ANNUITY UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM WHEN THE CHILD IS CALLED TO ACTIVE MILITARY DUTY OR TRAINING; TO CLARIFY A DEPENDENT CHILD'S ELIGIBILITY FOR A DEPENDENT CHILD ANNUITY UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM WHEN THE CHILD'S PARENT HAS RETIRED BUT RETURNS TO WORK UNDER A COVERED EMPLOYER; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND AND UPDATE THE LAW CONCERNING SURVIVOR ANNUITY BENEFITS UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-710 is amended to read as follows:  
24-7-710. Survivor annuity benefits.

(a)(1) If an active member with five (5) or more years of actual and reciprocal service, including credited service for the year immediately



preceding his or her death, dies before the receipt of retirement benefits from the Arkansas Teacher Retirement System, then the benefits provided in this section shall be paid to eligible survivors.

(2)(A) An immediately eligible survivor is entitled to receive monthly benefits beginning the month after the death of the active member if the survivor application is filed with the system ~~within three (3) months of the death of the member~~ by the end of the sixth full calendar month following the date of the active member's death, otherwise the monthly benefits shall begin the month that the survivor application is filed with the system.

(B) If an immediately eligible survivor or the minor survivor's guardian or legal representative fails to complete the application process ~~within six (6) calendar months after~~ by the end of the sixth full calendar month following the date on which the application required under subdivision (a)(2)(A) of this section and any additional documentation required by the system is filed, ~~including the submission of any additional documentation required by the system~~, the application shall be void unless an extension is granted by the ~~system~~ Executive Director of the Arkansas Teacher Retirement System.

(b)(1)(A)(i) Unless the active member otherwise directs an alternative beneficiary to receive a residue with a payable balance by using a beneficiary form approved by the system, ~~a~~ the active member's surviving spouse, who was married to the active member for at least the two (2) years immediately preceding the active member's death, shall receive an annuity computed in the same manner in all respects as if the active member had retired on the date of the active member's death and elected Option A under § 24-7-706 to provide one hundred percent (100%) survivor annuity benefits, including benefits applicable under § 24-7-713, for his or her surviving spouse.

(ii)(a) Unless otherwise provided by this section, a surviving spouse who is ineligible for an annuity under this section solely as a result of the active member designating an alternative beneficiary shall be eligible for an annuity under this section if the alternative beneficiary waives his or her right to the residue.

(b) If the active member does not have a residue with a payable balance, a waiver of an alternative beneficiary's right to a residue shall not be required.

~~(ii)~~(iii) The system shall continue to pay any benefits applicable under § 24-7-713 for an eligible surviving spouse, including a spouse who began receiving benefits on or after July 1, 2009.

(B)(i) If a surviving spouse is immediately eligible to receive a monthly benefit immediately after the death of ~~a~~ an active member, the immediately eligible surviving spouse is entitled to receive monthly benefits beginning the month after the death of the active member if the survivor application and all other required additional information is filed with the system ~~within three (3) months of the death of the member~~ by the end of the sixth full calendar month following the date of the active member's death, otherwise the monthly benefits shall begin the month that the survivor application is filed with the system if at the time of the active member's death the active member had:

(a) Accumulated twenty-five (25) years or more of credited service and qualified as eligible to receive a retirement annuity under §§ 24-7-701 and 24-7-702; or

(b) Reached sixty (60) years of age and qualified as eligible to receive a retirement annuity under § 24-7-707.

(ii) If an immediately eligible spouse fails to complete the application process ~~within six (6) calendar months after~~ by the end of the sixth full calendar month following the date on which the survivor application and additional documentation required under subdivision (b)(1)(B)(i) of this section is filed, ~~including the submission of all additional documentation required by the system~~, the survivor application shall be void unless an extension is granted by the ~~system~~ executive director.

(C)(i) If the surviving spouse is not immediately eligible to receive monthly benefits under subdivision (b)(1)(B) of this section, the surviving spouse's benefits shall begin the later of either the month following the date the active member would have been eligible to receive benefits had the active member survived or the date that ~~an application for a surviving spouse's benefits~~ a survivor application is filed with the system.

(ii) If a surviving spouse becomes eligible for surviving spouse benefits and fails to complete the application process ~~within six (6) calendar months after~~ by the end of the sixth full calendar month following the date on which the survivor application and additional

documentation required under subdivision (b)(1)(B)(i) of this section is filed, ~~including the submission of any additional documentation required by the system,~~ the survivor application shall be void unless an extension is granted by the ~~system~~ executive director.

(D) If the surviving spouse is eligible to receive the survivor annuity and the active member had not reached sixty (60) years of age at the time of the active member's death, the surviving spouse may elect to defer receipt of the annuity until the active member would have reached sixty (60) years of age, and the surviving spouse's benefits shall not be reduced under the early retirement provisions of § 24-7-702.

(E) The surviving spouse's benefits under this section are payable for the surviving spouse's lifetime.

(F) If the active member directs an alternative beneficiary by using a beneficiary form approved by the system, the active member may designate one or more residual beneficiaries to receive a lump-sum payment of the active member's residue amount under § 24-7-709 in lieu of the active member's surviving spouse.

(2) If at the time of the active member's death there are no dependent children and the surviving spouse who is eligible to receive the annuity under this subsection files with the system a written waiver of his or her right to the spousal annuity, a lump-sum distribution of the deceased active member's accumulated contributions plus regular interest may be made to the surviving spouse.

~~(3) The Board of Trustees of the Arkansas Teacher Retirement System may adopt rules to carry out the provisions of this section.~~

~~(c)(1)(A)(i) A surviving dependent child of the member~~ An active member's surviving dependent child shall receive an annuity in an amount equal to one percent (1%) of the active member's highest salary year for each quarter of a year credited as actual service in the system but not to exceed twenty (20) quarters of a year that are credited as actual service in the system for up to a maximum of twenty thousand dollars (\$20,000).

(ii) If the active member's highest salary year occurs in the year that the active member died, the system shall calculate the surviving dependent child's annuity on the basis of a full year of salary by the active member.

(B) If a an active member has more than three (3)

surviving dependent children, the aggregate amount of the surviving dependent children's annuity shall not exceed the lesser of sixty percent (60%) of the active member's highest salary year or sixty thousand dollars (\$60,000) per year and shall be divided equally among the surviving dependent children.

(2)(A) A deceased active member's child shall be considered a dependent child and eligible for the dependent child annuity until he or she reaches eighteen (18) years of age.

~~(B)(i) The child of a deceased member is considered a dependent child and is eligible for the dependent child annuity at eighteen (18) years of age or older, but not older than twenty three (23) years of age, if the dependent child stays continuously enrolled as a full-time student at an accredited secondary school, college, or university.~~ A deceased active member's child shall be considered a dependent child who is eligible for a dependent child annuity if the child:

(a) Is at least eighteen (18) years of age and not older than twenty-two (22) years of age; and

(b) Stays continuously enrolled as a full-time student in an accredited secondary school, college, university, or vocational-technical school.

(ii) Notwithstanding subdivision (c)(2)(B)(i)(b) of this section, a dependent child who enrolls in an accredited college, university, or vocational-technical school and defers his or her enrollment in accordance with rules promulgated by the Board of Trustees of the Arkansas Teacher Retirement System shall remain eligible to receive a dependent child annuity during his or her period of deferred enrollment.

~~(ii)(C)~~ (C) Regardless of age, a deceased active member's child who has been deemed physically or mentally incapacitated by a court of competent jurisdiction is eligible to receive a dependent child annuity for as long as the incapacity exists.

(D)(i) A dependent child may have his or her dependent child annuity temporarily suspended if the dependent child:

(a) Is called to active military duty or active military training; and

(b) Submits a copy of his or her military orders to the system.

(ii) The dependent child's dependent child annuity

shall be temporarily suspended for the duration of the dependent child's participation in active military duty or active military duty training.

(iii) The dependent child's dependent child annuity shall be reinstated if the dependent child:

(a) Is at least eighteen (18) years of age and not older than twenty-two (22) years of age;

(b) Immediately enrolls as a full-time student at an accredited secondary school, college, university, or vocational-technical school after returning from active military duty or active military training; and

(c) Submits documentation of his or her enrollment at an accredited secondary school, college, university, or vocational-technical school to the system.

(3) When a dependent child ceases to ~~be a dependent~~ qualify as a dependent child or dies, the dependent child shall not be eligible to qualify as a dependent child of the deceased active member again, and his or her share of the dependent child annuity shall terminate.

(d) For the purposes of §§ 24-7-709 and 24-7-711 related to the disposition of a member's residue amount, a survivor annuity received from ~~the~~ an active member's deposit account under this section shall be considered annuity payments received by the active member or his or her designated beneficiary and shall offset any disposition of residue payable under §§ 24-7-709 and 24-7-711 to the estate of the member or to an alternate payee.

(e) If ~~the~~ an active member ~~had~~ previously received benefits from the system and has not repaid in full all amounts payable by him or her to the system, the annuity amounts otherwise provided by this section shall be withheld until the total amount owed to the system is repaid.

(f)(1) For eligibility under this section, a member is considered active for an additional fiscal year following the last fiscal year that the member renders actual service to a covered employer and obtains at least one-fourth ( $\frac{1}{4}$ ) of a year of service credit.

(2) In addition, a member is considered active for eligibility under this section if in the fiscal year of a member's death, the member earned at least ten (10) days of service credit in each quarter before and including the quarter of the member's death.

(3) Service credit used in calculating any benefits paid under

this section ~~means~~ includes days of service, ~~including~~ and any paid sick leave covered by the covered employer.

(g)(1) A dependent child annuity shall be payable to each surviving child of a retiree who dies after returning to work if the child qualifies as a dependent child and is eligible for a dependent child annuity under this section and the rules and resolutions of the system.

(2) The provisions of this section that are applicable to the child of an active member shall be used to determine:

(A) Whether the child of a retiree who dies after returning to work qualifies as a dependent child who is eligible for a dependent child annuity;

(B) When the dependent child annuity is payable to the child of a retiree who dies after returning to work; and

(C) The amount of the dependent child annuity payable to the child of a retiree who dies after returning to work.

(h) A member's effective retirement date and the date when survivor benefits under this section are payable shall be determined by the law in effect at the time of a member's death.

(i) The board may adopt rules to carry out this section.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the operations of a state public retirement system are complex; that the Arkansas Teacher Retirement System must be able to meet the needs of its members as anticipated by the General Assembly; that certain provisions of the Arkansas Teacher Retirement System Act need revision and updating to bring these provisions into conformance with sound public pension policy and actuarial requirements; that the current provisions of the Arkansas Teacher Retirement System Act are unclear with regard to application deadlines, a dependent child's ability to continue receiving a dependent child annuity when the dependent child is called to active military duty or training, and the eligibility of a child of a retiree who returns to work to receive a dependent child annuity; that the revisions and updates are of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that as the Arkansas Teacher Retirement System operates on a fiscal year of July 1 to June 30, a July 1, 2023, effective date is necessary in order to

allow the provisions within this act to begin on the first day of the fiscal year and to allow for a structured and proper administration of the procedures referenced in this act; that the updates and revisions to the Arkansas Teacher Retirement System Act are of great importance and necessary for improving and protecting member benefits; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher 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.