

HOUSE BILL 768

P6

4lr2773
CF SB 604

By: **Delegate D. Jones**

Introduced and read first time: January 31, 2024

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Judges' Retirement System – Special Death Benefit**

3 FOR the purpose of establishing a line-of-duty special death benefit for members of the
4 Judges' Retirement System; providing for health benefits for a surviving child or
5 dependent parent who is receiving a special death benefit for the death of a member
6 of the Judges' Retirement System; providing for the retroactive application of this
7 Act to any member of the Judges' Retirement System who is killed prior to the
8 effective date of this Act; and generally relating to special death benefits for members
9 of the Judges' Retirement System.

10 BY repealing and reenacting, with amendments,
11 Article – State Personnel and Pensions
12 Section 2–507, 27–403, and 29–201
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2023 Supplement)

15 BY adding to
16 Article – State Personnel and Pensions
17 Section 29–204.3
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2023 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

22 **Article – State Personnel and Pensions**

23 2–507.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) Subject to the regulations adopted under § 2-503 of this subtitle, a State employee may enroll and participate in any of the health insurance or other benefit options established under the Program.

(b) The surviving spouse of a State employee who died while employed by the State may enroll and participate in the health insurance benefit options established under the Program as long as the surviving spouse:

(1) is receiving an allowance under Title 29, Subtitle 2 of this article; or

(2) is the sole primary designated beneficiary and receiving a periodic distribution of benefits under an optional retirement program under Title 30 of this article.

(c) The surviving child or dependent parent of a State Police officer who died while employed by the State may enroll and participate in the health insurance benefit options established under the Program as long as the child or parent is receiving an allowance under Title 29, Subtitle 2 of this article.

(d) The surviving child or dependent parent of a correctional officer who at the time of death was a member of the Correctional Officers' Retirement System and who died while employed by the State may enroll and participate in the health insurance benefit options established under the Program as long as the child or parent is receiving an allowance under Title 29, Subtitle 2 of this article.

(e) The surviving child or dependent parent of a State employee who at the time of death was a member of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System, or Teachers' Pension System and who was killed or died while employed by the State may enroll and participate in the health insurance benefit options established under the Program as long as the child or parent is receiving an allowance under Title 29, Subtitle 2 of this article.

(F) THE SURVIVING CHILD OR DEPENDENT PARENT OF AN INDIVIDUAL WHO AT THE TIME OF DEATH WAS A MEMBER OF THE JUDGES' RETIREMENT SYSTEM AND WHO DIED WHILE EMPLOYED BY THE STATE MAY ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT OPTIONS ESTABLISHED UNDER THE PROGRAM AS LONG AS THE CHILD OR PARENT IS RECEIVING AN ALLOWANCE UNDER TITLE 29, SUBTITLE 2 OF THIS ARTICLE.

27-403.

(a) (1) Except as provided in paragraph (2) of this subsection **AND SUBSECTION (D) OF THIS SECTION**, on the death of a member, the Board of Trustees shall pay to the surviving spouse 50% of the retirement allowance that would be payable were the member alive and eligible to receive a retirement allowance.

(2) (i) If at the time of death the member does not have a surviving spouse or a child who is under the age of 26 years or is disabled, the Board of Trustees shall pay to the member's designated beneficiary or beneficiaries a lump-sum death benefit consisting of the sum of:

1. the member's accumulated contributions; and
2. an amount equal to the member's annual salary at the time of death.

(ii) If a member has designated more than one beneficiary, the lump-sum death benefit provided in subparagraph (i) of this paragraph shall be divided equally among the beneficiaries.

(b) **[On] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, ON** the death of a former member or retiree, the Board of Trustees shall pay to the surviving spouse 50% of the retirement allowance that would be payable were the former member or retiree alive and eligible to receive a retirement allowance.

(c) (1) This subsection applies to a member, former member, or retiree who at the time of death:

- (i) does not have a spouse; and
- (ii) has a child under the age of 26 years, or a child who is disabled.

(2) **[The] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE** Board of Trustees shall pay to the surviving children of the member, former member, or retiree who are under the age of 26 years or are disabled the retirement allowance that would have been paid to a surviving spouse under subsection (a) or (b) of this section.

(3) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, if the Board of Trustees pays an allowance to more than one child, the Board of Trustees shall divide the allowance equally among the children in a manner that provides for payments to continue until:

1. each child has died; or
2. each child becomes 26 years old.

(ii) Notwithstanding paragraph (3)(i)2 of this subsection, a surviving child who is disabled shall continue to receive an allowance under subparagraph (i) of this paragraph past the age of 26 years, if the child continues to be disabled.

(iii) If a surviving child receiving an allowance under subparagraph (i) of this paragraph is disabled, as defined under § 72(m)(7) of the Internal Revenue Code,

the Board of Trustees shall pay to the disabled surviving child an allowance equal to the total of the allowances paid under subparagraph (i) of this paragraph after:

1. all other nondisabled surviving children have died; or

2. the youngest nondisabled surviving child becomes 26 years old.

(iv) If more than one surviving child is disabled, as defined under § 72(m)(7) of the Internal Revenue Code, the allowance payable under subparagraph (iii) of this paragraph shall be divided equally among the disabled children.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A BENEFIT MAY NOT BE PAID UNDER THIS SECTION IF A BENEFIT IS PAID UNDER § 29-204.3 OF THIS ARTICLE.

(2) IF ALL INDIVIDUALS WHO ARE ELIGIBLE FOR A SPECIAL DEATH BENEFIT UNDER § 29-204.3 OF THIS ARTICLE ELECT TO WAIVE THE PAYMENT OF A SPECIAL DEATH BENEFIT UNDER § 29-204.3 OF THIS ARTICLE, A BENEFIT SHALL BE PAID IN ACCORDANCE WITH THIS SECTION.

29-201.

[This] EXCEPT AS PROVIDED IN § 29-204.3 OF THIS SUBTITLE, THIS subtitle does not apply to the Judges' Retirement System.

29-204.3.

(A) THIS SECTION APPLIES ONLY TO AN INDIVIDUAL WHO IS KILLED WHILE A MEMBER OF THE JUDGES' RETIREMENT SYSTEM:

(1) WITHOUT WILLFUL NEGLIGENCE BY THE MEMBER; AND

(2) WITH DEATH ARISING OUT OF OR IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY.

(B) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A MEMBER AND FINDS THAT THE DEATH HAS OCCURRED IN THE MANNER DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL PAY:

(1) IF THE MEMBER IS SURVIVED BY A SPOUSE, A CHILD UNDER THE AGE OF 26 YEARS, A DISABLED CHILD, OR A DEPENDENT PARENT:

(I) THE MEMBER'S ACCUMULATED CONTRIBUTIONS TO THE DESIGNATED BENEFICIARY, OR OTHERWISE TO THE MEMBER'S ESTATE; AND

(II) AN ALLOWANCE OF TWO-THIRDS OF THE MEMBER'S FINAL
COMPENSATION:

1. TO THE SURVIVING SPOUSE;

2. IF THERE IS NO SURVIVING SPOUSE OR IF THE
SURVIVING SPOUSE DIES, TO ANY CHILDREN OF THE DECEASED MEMBER WHO ARE
UNDER THE AGE OF 26 YEARS OR DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE
INTERNAL REVENUE CODE, IN ACCORDANCE WITH SUBSECTION (C) OF THIS
SECTION; OR

3. IF THERE IS NO SURVIVING SPOUSE, NO CHILD UNDER
THE AGE OF 26 YEARS, OR NO DISABLED CHILD, TO THE MEMBER'S DEPENDENT
PARENT TO CONTINUE AS THE BOARD OF TRUSTEES MAY DIRECT FOR THE REST OF
THE PARENT'S LIFE; OR

(2) IF THE MEMBER IS NOT SURVIVED BY A SPOUSE, A CHILD UNDER
THE AGE OF 26 YEARS, A DISABLED CHILD, OR A DEPENDENT PARENT, A DEATH
BENEFIT IN ACCORDANCE WITH § 27-403(A)(2) OF THIS ARTICLE.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
SUBSECTION, IF THE BOARD OF TRUSTEES PAYS AN ALLOWANCE UNDER THIS
SECTION TO MORE THAN ONE CHILD, THE BOARD OF TRUSTEES SHALL DIVIDE THE
ALLOWANCE AMONG THE CHILDREN IN A MANNER THAT PROVIDES FOR PAYMENTS
TO CONTINUE UNTIL:

(I) EACH CHILD HAS DIED; OR

(II) EACH CHILD BECOMES 26 YEARS OLD.

(2) NOTWITHSTANDING PARAGRAPH (1)(II) OF THIS SUBSECTION, A
SURVIVING CHILD WHO IS DISABLED SHALL CONTINUE TO RECEIVE AN ALLOWANCE
UNDER PARAGRAPH (1) OF THIS SUBSECTION PAST THE AGE OF 26 YEARS, IF THE
CHILD CONTINUES TO BE DISABLED.

(3) (I) IF A SURVIVING CHILD RECEIVING AN ALLOWANCE UNDER
PARAGRAPH (1) OF THIS SUBSECTION IS DISABLED, AS DEFINED UNDER § 72(M)(7)
OF THE INTERNAL REVENUE CODE, THE BOARD OF TRUSTEES SHALL PAY TO THE
DISABLED SURVIVING CHILD AN ALLOWANCE EQUAL TO THE TOTAL OF THE
ALLOWANCES PAID UNDER PARAGRAPH (1) OF THIS SUBSECTION AFTER:

1 1. ALL OTHER NONDISABLED SURVIVING CHILDREN
2 HAVE DIED; OR

3 2. THE YOUNGEST NONDISABLED SURVIVING CHILD
4 BECOMES 26 YEARS OLD.

5 (II) IF MORE THAN ONE SURVIVING CHILD IS DISABLED, AS
6 DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE ALLOWANCE
7 PAYABLE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DIVIDED
8 EQUALLY AMONG THE DISABLED CHILDREN.

9 (D) BEFORE THE PAYMENT OF ANY SPECIAL DEATH BENEFIT IS MADE
10 UNDER THIS SECTION, IF ALL INDIVIDUALS ELIGIBLE FOR A SPECIAL DEATH
11 BENEFIT UNDER THIS SECTION ELECT TO WAIVE THE PAYMENT OF THE SPECIAL
12 DEATH BENEFIT, A BENEFIT SHALL BE PAID IN ACCORDANCE WITH § 27-403 OF THIS
13 ARTICLE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That:

15 (a) This section applies to a member of the Judges' Retirement System who is
16 killed while a member of the Judges' Retirement System prior to the effective date of this
17 Act:

18 (1) without willful negligence by the member; and

19 (2) with death arising out of or in the course of the actual performance of
20 the member's duties.

21 (b) (1) On or before December 31, 2024, the surviving spouse of an individual
22 described in subsection (a) of this section may request the Board of Trustees for the State
23 Retirement and Pension System to award the surviving spouse a special death benefit
24 under § 29-204.3 of the State Personnel and Pensions Article, as enacted by Section 1 of
25 this Act.

26 (2) On receipt of a request to receive a special death benefit under
27 paragraph (1) of this subsection, when the Board of Trustees receives proof of death of the
28 individual described under subsection (a) of this section and finds that the death occurred
29 in the manner described in § 29-204.3 of the State Personnel and Pensions Article, as
30 enacted by Section 1 of this Act, the Board of Trustees shall administer the special death
31 benefit as required under § 29-204.3 of the State Personnel and Pensions Article, as
32 enacted by Section 1 of this Act, and in accordance with subsection (c) of this section.

33 (c) (1) A special death benefit awarded under subsection (b) of this section
34 shall include a lump-sum payment of the special death benefit that would have been paid
35 from the member's date of death through the date the Board of Trustees awards the special

1 death benefit in accordance with this section, with interest calculated at 4% per year,
2 compounded annually.

3 (2) The retroactive lump-sum special death benefit paid under paragraph
4 (1) of this subsection shall be reduced by the amount of any benefits paid under § 27-403
5 of the State Personnel and Pensions Article, as enacted by Section 1 of this Act, with
6 interest calculated at 4% per year, compounded annually, accumulated through the date
7 the Board of Trustees awards the special death benefit in accordance with this section.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
9 1, 2024.