

Chapter 485

(House Bill 768)

AN ACT concerning

Judges' Retirement System – Special Death Benefit

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

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

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

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

Article – State Personnel and Pensions

2–507.

(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.

(G) (1) THIS SUBSECTION APPLIES TO AN INDIVIDUAL RECEIVING AN ALLOWANCE UNDER § 29-203(B), § 29-204(B), § 29-204.1, § 29-204.2, OR § 29-204.3 OF THIS ARTICLE.

(2) AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION WHO ELECTS TO PARTICIPATE IN THE HEALTH INSURANCE BENEFIT OPTIONS ESTABLISHED UNDER THE PROGRAM SHALL BE ENTITLED TO THE MAXIMUM ALLOWABLE STATE SUBSIDY PROVIDED FOR A STATE RETIREE.

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~~ SALARY PAYABLE IN THAT FISCAL YEAR TO A MEMBER HOLDING THE SAME LEVEL JUDICIAL POSITION AS THAT HELD BY THE MEMBER AS OF THE DATE OF DEATH OF THE MEMBER:

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. ALL OTHER NONDISABLED SURVIVING CHILDREN HAVE DIED; OR

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

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

(1) without willful negligence by the member; and

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

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

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

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

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

(2) ~~The retroactive lump-sum special death benefit paid under paragraph (1) of this subsection shall be reduced by the amount of any benefits paid under § 27-403 of the State Personnel and Pensions Article, as enacted by Section 1 of this Act,~~ return of the member's contributions, as required under § 29-204.3 of the State Personnel and Pensions Article, as enacted by Section 1 of this Act, shall be reduced by the amount of any benefits paid under § 27-403 of the State Personnel and Pensions Article with interest calculated at 4% per year, compounded annually, accumulated through the date the Board of Trustees awards the special death benefit in accordance with this section.

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

Approved by the Governor, May 9, 2024.