

HOUSE BILL 860

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CF SB 828

By: **Delegate B. Barnes (Chair, Joint Committee on Pensions)**

Introduced and read first time: February 8, 2019

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Employees', Teachers', and Correctional Officers' Systems – Active Members –**
3 **Death Benefits**

4 FOR the purpose of allowing a certain surviving child of a member of the Employees'
5 Retirement System, Employees' Pension System, Teachers' Retirement System, or
6 Teachers' Pension System to participate in the State Employee and Retiree Health
7 and Welfare Benefits program if the child receives a certain allowance; prohibiting a
8 certain death benefit from being paid if a certain allowance is paid for a death;
9 requiring a certain death benefit to be paid if certain individuals waive the payment
10 of a certain allowance; providing certain survivor benefits to surviving children of
11 certain members of the State Retirement and Pension System; providing for the
12 payment of a certain allowance to surviving children of a member when there is no
13 surviving spouse; providing for the distribution of a certain allowance to surviving
14 children; making conforming changes; and generally relating to death benefits for
15 active members in the State Retirement and Pension System.

16 BY repealing and reenacting, with amendments,
17 Article – State Personnel and Pensions
18 Section 2–507(e), 29–202, 29–205, and 29–206
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2018 Supplement)

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

23 **Article – State Personnel and Pensions**

24 2–507.

25 (e) The surviving child or dependent parent of a State employee who at the time
26 of death was a member of the Employees' Retirement System, Employees' Pension System,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Teachers' Retirement System, or Teachers' Pension System and who was killed **OR DIED**
2 while employed by the State may enroll and participate in the health insurance benefit
3 options established under the Program as long as the child or parent is receiving an
4 allowance under Title 29, Subtitle 2 of this article.

5 29–202.

6 (a) (1) (i) Subject to subparagraph (ii) of this paragraph, when the Board
7 of Trustees receives proof of death of an individual who died while employed as a member,
8 the Board of Trustees shall pay to the designated beneficiary or, if there is no designated
9 beneficiary, to the member's estate the amounts specified in this subsection.

10 (ii) If a member designates more than one beneficiary, on the death
11 of the member, the Board of Trustees shall pay the amounts specified in this subsection in
12 equal shares to each of the designated beneficiaries.

13 (2) Subject to paragraph (1) of this subsection, the Board of Trustees shall
14 pay the member's accumulated contributions.

15 (3) Subject to paragraph (1) of this subsection, the Board of Trustees shall
16 pay an amount equal to the member's annual earnable compensation at death if the
17 member dies in the course of the performance of duty or the member has at least 1 year of
18 eligibility service.

19 (b) (1) A death benefit under this section may not be paid for the death of a
20 member of the State Police Retirement System if a special death benefit under § 29–204 of
21 this subtitle is paid for that death.

22 (2) A death benefit under this section may not be paid for the death of a
23 member of the Correctional Officers' Retirement System if a special death benefit under §
24 29–204.1 of this subtitle is paid for that death.

25 (3) A death benefit under this section may not be paid for the death of a
26 member of the Employees' Retirement System, Employees' Pension System, Teachers'
27 Retirement System, or Teachers' Pension System if a special death benefit under §
28 29–204.2 of this subtitle is paid for that death.

29 (4) A death benefit under this section may not be paid for the death of a
30 member of the Law Enforcement Officers' Pension System if a special death benefit under
31 § 29–203 of this subtitle is paid for that death.

32 (5) **A DEATH BENEFIT UNDER THIS SECTION MAY NOT BE PAID FOR**
33 **THE DEATH OF A MEMBER IF A RETIREMENT ALLOWANCE UNDER § 29–205 OR §**
34 **29–206 OF THIS SUBTITLE IS PAID FOR THAT DEATH.**

35 (6) (I) If all individuals who are eligible for a special death benefit
36 under § 29–203, § 29–204, § 29–204.1, or § 29–204.2 elect to waive the payment of a special

1 death benefit, a benefit shall be paid in accordance with subsection (a) of this section.

2 **(II) IF ALL INDIVIDUALS WHO ARE ELIGIBLE FOR AN**
 3 **ALLOWANCE UNDER § 29–205 OR § 29–206 OF THIS SUBTITLE ELECT TO WAIVE THE**
 4 **PAYMENT OF AN ALLOWANCE, A BENEFIT SHALL BE PAID IN ACCORDANCE WITH**
 5 **SUBSECTION (A) OF THIS SECTION.**

6 (c) The Board of Trustees may provide the death benefit as group life insurance
 7 if the Board of Trustees finds that the designated beneficiaries would receive a more
 8 favorable tax treatment of the death benefit.

9 29–205.

10 (a) This section applies to [the surviving spouse of] an individual who died while
 11 employed as a member [of]:

12 (1) **(I) OF** the Correctional Officers' Retirement System;

13 **[(2)] (II) OF** the Employees' Retirement System;

14 **[(3)] (III) OF** the Local Fire and Police System, if the member had
 15 transferred from the Employees' Retirement System; or

16 **[(4)] (IV) OF** the Teachers' Retirement System; **AND**

17 **(2) (I) WHO WAS ELIGIBLE TO RETIRE; OR**

18 **(II) WHO WAS AT LEAST 55 YEARS OLD WITH AT LEAST 15 YEARS**
 19 **OF ELIGIBILITY SERVICE.**

20 (b) Except as provided in subsections (c) and (d) of this section, a **MEMBER'S**
 21 surviving spouse, **CHILD UNDER THE AGE OF 26 YEARS, OR DISABLED CHILD** may elect
 22 to receive one of the following, **IN ACCORDANCE WITH SUBSECTIONS (E) THROUGH (G)**
 23 **OF THIS SECTION:**

24 (1) the death benefit, under § 29–202 of this subtitle; or

25 (2) an allowance equal to the amount payable under Option 2 as described
 26 in § 21–403 of this article[, if:

27 (i) the spouse is the sole primary designated beneficiary; and

28 (ii) the member:

29 1. was eligible to retire; or

1 ALLOWANCES PAID UNDER PARAGRAPH (1) OF THIS SUBSECTION AFTER:

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

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

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

10 (G) BEFORE THE PAYMENT OF AN ALLOWANCE UNDER THIS SECTION, IF ALL
11 INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE A DEATH BENEFIT UNDER THIS
12 SECTION ELECT TO WAIVE THE PAYMENT OF AN ALLOWANCE, A BENEFIT SHALL BE
13 PAID IN ACCORDANCE WITH § 29-202(A) OF THIS SUBTITLE.

14 29-206.

15 (a) This section applies to [the surviving spouse of] an individual who died while
16 employed as a member [of]:

17 (1) (I) OF the Employees' Pension System;

18 [(2)] (II) OF the Teachers' Pension System; or

19 [(3)] (III) OF the Local Fire and Police System, if the member had not
20 transferred from the Employees' Retirement System; AND

21 (2) (I) WHO WAS ELIGIBLE TO RETIRE;

22 (II) WHO HAD AT LEAST 25 YEARS OF ELIGIBILITY SERVICE; OR

23 (III) WHO WAS AT LEAST 55 YEARS OLD WITH AT LEAST 15 YEARS
24 OF ELIGIBILITY SERVICE.

25 (b) Except as provided in subsection (c) of this section, a MEMBER'S surviving
26 spouse, CHILD UNDER THE AGE OF 26 YEARS, OR DISABLED CHILD may elect to receive
27 one of the following, IN ACCORDANCE WITH SUBSECTIONS (D) THROUGH (F) OF THIS
28 SECTION:

29 (1) the death benefit under § 29-202 of this subtitle; or

1 (2) an allowance equal to the amount payable under Option 2 as described
2 in § 21–403 of this article[, if:

3 (i) the spouse is the sole primary designated beneficiary; and

4 (ii) the member:

5 1. was eligible to retire;

6 2. had at least 25 years of eligibility service; or

7 3. was at least 55 years old with at least 15 years of eligibility
8 service].

9 (c) A death benefit under this section may not be paid for the death of a member
10 of the Employees' Pension System or Teachers' Pension System if a special death benefit
11 under § 29–204.2 of this subtitle is payable or has been paid for that death.

12 **(D) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A**
13 **MEMBER DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, AND AN ELECTION**
14 **FOR AN ALLOWANCE IS MADE UNDER SUBSECTION (B) OF THIS SECTION, THE BOARD**
15 **OF TRUSTEES SHALL PAY AN ALLOWANCE EQUAL TO THE AMOUNT PAYABLE UNDER**
16 **OPTION 2 AS DESCRIBED IN § 21–403 OF THIS ARTICLE:**

17 **(1) TO THE SURVIVING SPOUSE; OR**

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

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

27 **(I) EACH CHILD HAS DIED; OR**

28 **(II) EACH CHILD BECOMES 26 YEARS OLD.**

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

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

6 **1. ALL OTHER NONDISABLED SURVIVING CHILDREN**
7 **HAVE DIED; OR**

8 **2. THE YOUNGEST NONDISABLED SURVIVING CHILD**
9 **BECOMES 26 YEARS OLD.**

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

14 **(F) BEFORE THE PAYMENT OF AN ALLOWANCE UNDER THIS SECTION, IF ALL**
15 **INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE A DEATH BENEFIT UNDER THIS**
16 **SECTION ELECT TO WAIVE THE PAYMENT OF AN ALLOWANCE, A BENEFIT SHALL BE**
17 **PAID IN ACCORDANCE WITH § 29-202(A) OF THIS SUBTITLE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2019.