

Chapter 208

(Senate Bill 828)

AN ACT concerning

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

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

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

(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.

29–202.

(a) (1) (i) Subject to subparagraph (ii) of this paragraph, when the Board of Trustees receives proof of death of an individual who died while employed as a member,

the Board of Trustees shall pay to the designated beneficiary or, if there is no designated beneficiary, to the member's estate the amounts specified in this subsection.

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

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

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

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

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

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

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

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

(6) (I) If all individuals who are eligible for a special death benefit under § 29–203, § 29–204, § 29–204.1, or § 29–204.2 elect to waive the payment of a special death benefit, a benefit shall be paid in accordance with subsection (a) of this section.

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

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

29–205.

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

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

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

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

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

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

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

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

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

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

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

(ii) the member:

1. was eligible to retire; or

2. was at least 55 years old with at least 15 years of eligibility service].

(C) (1) EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF A DEATH OF A MEMBER DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION AND THERE IS NO

SURVIVING SPOUSE, A CHILD UNDER THE AGE OF 26 YEARS OR A DISABLED CHILD OF THE MEMBER MAY ELECT TO RECEIVE AN ALLOWANCE IN ACCORDANCE WITH THIS SUBSECTION.

(2) IF AN ELECTION IS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL PAY, IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION, AN ALLOWANCE EQUAL TO 50% OF THE BASIC ALLOWANCE THE MEMBER WAS ELIGIBLE TO RECEIVE UNDER DIVISION II OF THIS ARTICLE 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.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, IF THE BOARD OF TRUSTEES PAYS AN ALLOWANCE UNDER THIS SUBSECTION 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:

1. EACH CHILD HAS DIED; OR
2. EACH CHILD BECOMES 26 YEARS OLD.

(II) NOTWITHSTANDING SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, 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) 1. 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:

A. ALL OTHER NONDISABLED SURVIVING CHILDREN HAVE DIED; OR

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

2. IF MORE THAN ONE SURVIVING CHILD IS DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE RETIREMENT ALLOWANCE PAYABLE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE DIVIDED EQUALLY AMONG THE DISABLED CHILDREN.

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

~~(D)~~ **(D)** A death benefit under this section may not be paid for the death of a member of the Correctional Officers' Retirement System if a special death benefit under § 29-204.1 of this subtitle is payable or has been paid for that death.

~~(E)~~ **(E)** A death benefit under this section may not be paid for the death of a member of the Employees' Retirement System or Teachers' Retirement System if a special death benefit under § 29-204.2 of this subtitle is payable or has been paid for that death.

~~(F) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A MEMBER DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, AND AN ELECTION FOR AN ALLOWANCE IS MADE UNDER SUBSECTION (B) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL PAY AN ALLOWANCE EQUAL TO THE AMOUNT PAYABLE UNDER OPTION 2 AS DESCRIBED IN § 21-403 OF THIS ARTICLE:~~

~~(1) TO THE SURVIVING SPOUSE; OR~~

~~(2) IF THERE IS NO SURVIVING SPOUSE, 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 (F) OF THIS SECTION.~~

~~(F) (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.~~

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

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

29-206.

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

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

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

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

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

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

(III) WHO:

1. WAS NOT SUBJECT TO THE REFORMED CONTRIBUTORY PENSION BENEFIT AND WAS AT LEAST 55 YEARS OLD WITH AT LEAST 15 YEARS OF ELIGIBILITY SERVICE; OR

2. WAS SUBJECT TO THE REFORMED CONTRIBUTORY PENSION BENEFIT AND WAS AT LEAST 60 YEARS OLD WITH AT LEAST 15 YEARS OF ELIGIBILITY SERVICE.

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

- (1) the death benefit under § 29–202 of this subtitle; or
- (2) an allowance equal to the amount payable under Option 2 as described in § 21–403 of this article[, if:
 - (i) the spouse is the sole primary designated beneficiary; and
 - (ii) the member:
 1. was eligible to retire;
 2. had at least 25 years of eligibility service; or
 3. was at least 55 years old with at least 15 years of eligibility service].

(C) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF A DEATH OF A MEMBER DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION AND THERE IS NO SURVIVING SPOUSE, A CHILD UNDER THE AGE OF 26 YEARS OR A DISABLED CHILD OF THE MEMBER MAY ELECT TO RECEIVE AN ALLOWANCE IN ACCORDANCE WITH THIS SUBSECTION.

(2) IF AN ELECTION IS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL PAY, IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION, AN ALLOWANCE EQUAL TO 50% OF THE BASIC ALLOWANCE THE MEMBER WAS ELIGIBLE TO RECEIVE UNDER DIVISION II OF THIS ARTICLE 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.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, IF THE BOARD OF TRUSTEES PAYS AN ALLOWANCE UNDER THIS SUBSECTION 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:

1. EACH CHILD HAS DIED; OR
2. EACH CHILD BECOMES 26 YEARS OLD.

(II) NOTWITHSTANDING SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, 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) 1. 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:

A. ALL OTHER NONDISABLED SURVIVING CHILDREN HAVE DIED; OR

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

2. IF MORE THAN ONE SURVIVING CHILD IS DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE RETIREMENT ALLOWANCE PAYABLE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE DIVIDED EQUALLY AMONG THE DISABLED CHILDREN.

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

~~(e)~~ (D) A death benefit under this section may not be paid for the death of a member of the Employees' Pension System or Teachers' Pension System if a special death benefit under § 29-204.2 of this subtitle is payable or has been paid for that death.

~~(D) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A MEMBER DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, AND AN ELECTION FOR AN ALLOWANCE IS MADE UNDER SUBSECTION (B) OF THIS SECTION, THE BOARD~~

~~OF TRUSTEES SHALL PAY AN ALLOWANCE EQUAL TO THE AMOUNT PAYABLE UNDER OPTION 2 AS DESCRIBED IN § 21-403 OF THIS ARTICLE:~~

~~(1) TO THE SURVIVING SPOUSE; OR~~

~~(2) IF THERE IS NO SURVIVING SPOUSE, 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 (E) OF THIS SECTION.~~

~~(E) (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 RETIREMENT ALLOWANCE PAYABLE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DIVIDED EQUALLY AMONG THE DISABLED CHILDREN.~~

~~(F) BEFORE THE PAYMENT OF AN ALLOWANCE UNDER THIS SECTION, IF ALL INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE A DEATH BENEFIT UNDER THIS~~

~~SECTION ELECT TO WAIVE THE PAYMENT OF AN ALLOWANCE, A BENEFIT SHALL BE PAID IN ACCORDANCE WITH § 29-202(A) OF THIS SUBTITLE.~~

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

Approved by the Governor, April 18, 2019.