

CHAPTER 519

(House Bill 725)

AN ACT concerning

~~Employees' State Retirement and Pension Systems System~~ – Line of Duty Death Benefits – ~~State Highway Administration Employees~~

FOR the purpose of providing that certain minor children and dependent parents of certain ~~employees of the State Highway Administration~~ deceased members of the State Retirement and Pension System are entitled to enroll and participate in the State Employee and Retiree Health and Welfare Benefits Program under certain circumstances; providing that surviving spouses, certain minor children, or dependent parents of certain deceased members of the ~~Employees' Retirement System or Employees' Pension System~~ State Retirement and Pension System are eligible to receive certain death benefits under certain circumstances; prohibiting the payment of certain death benefits to surviving spouses, certain minor children, or dependent parents of certain deceased members of the ~~Employees' Retirement System or Employees' Pension System~~ State Retirement and Pension System if the surviving spouse, children, or parents are receiving certain line of duty death benefits; providing for the application of this Act; and generally relating to line of duty death benefits for surviving spouses, minor children, and dependent parents of deceased ~~employees of the State Highway Administration~~ members of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–507, 29–202(b), 29–205, 29–206
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 29–202(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 29–204.2
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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 minor 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 minor child 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 is receiving an allowance under Title 29, Subtitle 2 of this article.

(E) THE SURVIVING MINOR CHILD OR DEPENDENT PARENT OF AN A STATE EMPLOYEE OF THE STATE HIGHWAY ADMINISTRATION WHO AT THE TIME OF DEATH WAS A MEMBER OF THE EMPLOYEES' RETIREMENT SYSTEM, OR EMPLOYEES' PENSION SYSTEM, TEACHERS' RETIREMENT SYSTEM, OR TEACHERS' PENSION SYSTEM AND WHO ~~DIED~~ WAS KILLED 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) 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.

(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 payable or has been 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 payable or has been paid for that death.

(3) A DEATH BENEFIT UNDER THIS SECTION MAY NOT BE PAID FOR THE DEATH OF ~~AN EMPLOYEE OF THE STATE HIGHWAY ADMINISTRATION WHO AT THE TIME OF DEATH WAS~~ A MEMBER OF THE EMPLOYEES' RETIREMENT SYSTEM, ~~OR~~ EMPLOYEES' PENSION SYSTEM, ~~OR~~ TEACHERS' RETIREMENT 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.

29-204.2.

(A) THIS SECTION APPLIES ONLY TO AN INDIVIDUAL WHO ~~DIES~~ IS KILLED WHILE EMPLOYED BY THE STATE HIGHWAY ADMINISTRATION AS A MEMBER OF THE EMPLOYEES' RETIREMENT SYSTEM, ~~OR~~ EMPLOYEES' PENSION SYSTEM, ~~OR~~ TEACHERS' RETIREMENT SYSTEM, OR TEACHERS' PENSION 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 18 YEARS, 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 AVERAGE FINAL COMPENSATION:

1. TO THE SURVIVING SPOUSE;

2. IF THERE IS NO SURVIVING SPOUSE OR IF THE SURVIVING SPOUSE DIES BEFORE THE YOUNGEST CHILD OF THE MEMBER IS 18 YEARS OLD, TO ALL CHILDREN OF THE DECEASED MEMBER WHO ARE UNDER THE AGE OF 18 YEARS; OR

3. IF THERE IS NO SURVIVING SPOUSE OR CHILDREN YOUNGER THAN 18 YEARS OF AGE, 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 18 YEARS, OR A DEPENDENT PARENT, THE DEATH BENEFIT UNDER § 29-202 OF THIS SUBTITLE.

(C) 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 UNDER THE AGE OF 18 YEARS IN A MANNER THAT PROVIDES FOR PAYMENTS TO CONTINUE UNTIL EACH CHILD DIES OR BECOMES 18 YEARS OLD.

29-205.

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

(1) the Correctional Officers' Retirement System;

(2) the Employees' Retirement System;

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

(4) the Teachers' Retirement System.

(b) Except as provided in [subsection (c)] **SUBSECTIONS (C) AND (D)** of this section, a surviving spouse may elect to receive one of the following:

(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) 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.

(D) 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.

29–206.

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

(1) the Employees' Pension System;

(2) the Teachers' Pension System; or

(3) the Local Fire and Police System, if the member had not transferred from the Employees' Retirement System.

(b) **[A] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A** surviving spouse may elect to receive one of the following:

(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) 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any individual who died on or after January 1, 2007, while employed by the State Highway Administration as a member of the Employees' Retirement System or Employees' Pension System:

- (1) without willful negligence by the individual; and
- (2) with death arising out of or in the course of the actual performance of duty.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.