

SENATE BILL 454

P6

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CF HB 601

By: **Senators Elfreth, Hettleman, and M. Washington**

Introduced and read first time: February 2, 2023

Assigned to: Budget and Taxation

Committee Report: Favorable

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Read second time: March 5, 2023

CHAPTER _____

1 AN ACT concerning

2 **State Police Retirement System, Law Enforcement Officers' Pension System,**
3 **and Judges' Retirement System – Surviving Spouse Benefit – Same-Sex Spouses**

4 FOR the purpose of authorizing the correction of the designated beneficiary election for
5 certain retirees of the State Police Retirement System, Law Enforcement Officers'
6 Pension System, or Judges' Retirement System who retired on or before a certain
7 date if the retiree named an individual of the same sex to be a designated beneficiary
8 and the retiree later married the designated beneficiary; and generally relating to
9 the State Police Retirement System, Law Enforcement Officers' Pension System, and
10 Judges' Retirement System.

11 BY repealing and reenacting, without amendments,
12 Article – State Personnel and Pensions
13 Section 24–403, 26–402, and 27–403
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2022 Supplement)

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

18 **Article – State Personnel and Pensions**

19 24–403.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) This section applies only to a retiree who has retired with a service retirement
2 allowance or a disability retirement allowance or a former member who has retired with a
3 deferred vested allowance.

4 (b) On the death of a retiree or former member, the Board of Trustees shall pay
5 80% of the retiree's retirement allowance:

6 (1) to the surviving spouse; or

7 (2) if there is no surviving spouse or if the surviving spouse dies, to any
8 children of the deceased retiree who are under 18 years of age or disabled, as defined under
9 § 72(m)(7) of the Internal Revenue Code, in accordance with subsection (c) of this section.

10 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection, if the
11 Board of Trustees pays an allowance to more than one child, the Board of Trustees shall
12 divide the allowance among the children in a manner that provides for payments to
13 continue until:

14 (i) each child has died; or

15 (ii) each child becomes 18 years old.

16 (2) Notwithstanding paragraph (1)(ii) of this subsection, a surviving child
17 who is disabled shall continue to receive an allowance under paragraph (1) of this
18 subsection past the age of 18 years, if the child continues to be disabled.

19 (3) (i) If a surviving child receiving an allowance under paragraph (1)
20 of this subsection is disabled, as defined under § 72(m)(7) of the Internal Revenue Code, the
21 Board of Trustees shall pay to the disabled surviving child an allowance equal to the total
22 of the allowances paid under paragraph (1) of this subsection after:

23 1. all other nondisabled surviving children have died; or

24 2. the youngest nondisabled surviving child becomes 18
25 years old.

26 (ii) If more than one surviving child is disabled, as defined under §
27 72(m)(7) of the Internal Revenue Code, the allowance payable under this paragraph shall
28 be divided equally among the disabled children.

29 26-402.

30 (a) This section applies to the surviving spouse or a child of a retiree in receipt of
31 a service retirement allowance or a disability retirement allowance.

32 (b) On the death of a retiree, the Board of Trustees shall pay 50% of the retiree's
33 retirement allowance to:

1 (1) the surviving spouse; or

2 (2) if there is no surviving spouse or if the surviving spouse dies, to any
3 children of the deceased retiree who are under 26 years old or disabled, as defined under §
4 72(m)(7) of the Internal Revenue Code.

5 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection, if the
6 Board of Trustees pays an allowance to more than one child, the Board of Trustees shall
7 divide the allowance among the children in a manner that provides for payments to
8 continue until:

9 (i) each child has died; or

10 (ii) each child becomes 26 years old.

11 (2) Notwithstanding paragraph (1)(ii) of this subsection, a surviving child
12 who is disabled shall continue to receive an allowance under paragraph (1) of this
13 subsection past the age of 26 years, if the child continues to be disabled.

14 (3) (i) If a surviving child receiving an allowance under paragraph (1)
15 of this subsection is disabled, as defined under § 72(m)(7) of the Internal Revenue Code, the
16 Board of Trustees shall pay to the disabled surviving child an allowance equal to the total
17 of the allowances paid under paragraph (1) of this subsection after:

18 1. all other nondisabled surviving children have died; or

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

21 (ii) If more than one surviving child is disabled, as defined under §
22 72(m)(7) of the Internal Revenue Code, the allowance payable under this paragraph shall
23 be divided equally among the disabled children.

24 27–403.

25 (a) (1) Except as provided in paragraph (2) of this subsection, on the death of
26 a member, the Board of Trustees shall pay to the surviving spouse 50% of the retirement
27 allowance that would be payable were the member alive and eligible to receive a retirement
28 allowance.

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

33 1. the member's accumulated contributions; and

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

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

6 (b) On the death of a former member or retiree, the Board of Trustees shall pay
7 to the surviving spouse 50% of the retirement allowance that would be payable were the
8 former member or retiree alive and eligible to receive a retirement allowance.

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

11 (i) does not have a spouse; and

12 (ii) has a child under the age of 26 years, or a child who is disabled.

13 (2) The Board of Trustees shall pay to the surviving children of the
14 member, former member, or retiree who are under the age of 26 years or are disabled the
15 retirement allowance that would have been paid to a surviving spouse under subsection (a)
16 or (b) of this section.

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

21 1. each child has died; or

22 2. each child becomes 26 years old.

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

26 (iii) If a surviving child receiving an allowance under subparagraph
27 (i) of this paragraph is disabled, as defined under § 72(m)(7) of the Internal Revenue Code,
28 the Board of Trustees shall pay to the disabled surviving child an allowance equal to the
29 total of the allowances paid under subparagraph (i) of this paragraph after:

30 1. all other nondisabled surviving children have died; or

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

1 (iv) If more than one surviving child is disabled, as defined under §
2 72(m)(7) of the Internal Revenue Code, the allowance payable under subparagraph (iii) of
3 this paragraph shall be divided equally among the disabled children.

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

5 (a) (1) In this section the following words have the meanings indicated.

6 (2) "Allowance" means a benefit that is payable in equal monthly
7 installments for the life of the recipient, except as otherwise provided for an optional form
8 of an allowance under § 21-403 of the State Personnel and Pensions Article.

9 (3) "Beneficiary" means a person, other than a retiree, in receipt of a
10 benefit from the State Retirement and Pension System.

11 (4) "Board of Trustees" means the Board of Trustees for the State
12 Retirement and Pension System.

13 (5) "Designated beneficiary" means a person named as beneficiary by a
14 member, a former member, or a retiree by filing:

15 (i) an acknowledged written designation with the State Retirement
16 Agency; or

17 (ii) a properly completed form submitted through the State
18 Retirement Agency's secure access participant portal with an electronic signature affixed
19 in the required manner and format.

20 (6) "Judges' Retirement System" means the Judges' Retirement System of
21 the State of Maryland.

22 (7) "Law Enforcement Officers' Pension System" means the Law
23 Enforcement Officers' Pension System of the State of Maryland.

24 (8) "Member" means, unless a different meaning is plainly required by the
25 context, an individual:

26 (i) for whom membership in a State system is a condition of
27 employment; or

28 (ii) 1. for whom membership in a State system is optional; and

29 2. who has elected to become a member of that State system.

30 (9) "Pension" means the part of an allowance that is derived from employer
31 contributions.

1 (10) “Retiree” means an individual who:

2 (i) has separated from employment with a participating employer;

3 and

4 (ii) receives a retirement allowance from the State Retirement and
5 Pension System.

6 (11) “Retirement” means the grant of a retirement allowance from the State
7 Retirement and Pension System after separation from employment with a participating
8 employer.

9 (12) (i) “Retirement allowance” means an allowance that is payable at
10 the time of separation from employment with a participating employer.

11 (ii) “Retirement allowance” includes:

12 1. a service retirement allowance; and

13 2. a disability retirement allowance.

14 (iii) “Retirement allowance” does not include a vested allowance.

15 (13) “State Police Retirement System” means the State Police Retirement
16 System of the State of Maryland.

17 (b) (1) This subsection applies to a retiree of the State Police Retirement
18 System who:

19 (i) retired on or before December 31, 2012;

20 (ii) at the time of retirement, selected one of the optional allowances
21 available under § 21–403 of the State Personnel and Pensions Article and designated an
22 individual of the same sex as the retiree to be a designated beneficiary;

23 (iii) on or after January 1, 2013, married the retiree’s designated
24 beneficiary; and

25 (iv) on July 1, 2023, was not divorced from the retiree’s designated
26 beneficiary.

27 (2) (i) On or before December 31, 2023, a retiree described in paragraph
28 (1) of this subsection may submit to the Board of Trustees:

29 1. a form provided by the State Retirement Agency,
30 requesting that the retiree’s optional retirement allowance be converted to a basic

1 allowance that provides the spouse of the retiree with a survivor benefit under § 24–403 of
2 the State Personnel and Pensions Article;

3 2. a marriage license indicating the retiree entered into a
4 marriage with the retiree’s designated beneficiary; and

5 3. a form provided by the State Retirement Agency
6 confirming the retiree and designated beneficiary are not divorced on or before July 1, 2023.

7 (ii) If a retiree described in paragraph (1) of this subsection dies after
8 the date the retiree married the retiree’s designated beneficiary but before July 1, 2023,
9 the retiree’s designated beneficiary may submit the documents required under
10 subparagraph (i) of this paragraph.

11 (3) (i) If a retiree is alive and submitted the documents as required
12 under paragraph (2)(i) of this subsection, the Board of Trustees shall adjust the retiree’s
13 optional retirement allowance as provided in paragraph (4) of this subsection after
14 receiving the documents.

15 (ii) If a retiree is deceased and the retiree’s designated beneficiary
16 submitted the documents under paragraph (2)(ii) of this subsection, the Board of Trustees,
17 after receiving the documents, shall:

18 1. adjust the designated beneficiary’s survivor benefit as
19 provided in paragraph (6)(i) of this subsection; and

20 2. make a lump sum payment to the retiree’s designated
21 beneficiary as provided in paragraph (6)(iii) of this subsection.

22 (4) (i) The Board of Trustees shall adjust a retiree’s optional retirement
23 allowance to an amount equal to the basic allowance the retiree would have received at the
24 time of retirement.

25 (ii) The adjustment made under subparagraph (i) of this paragraph
26 shall include any cost-of-living increases the retiree would have received from the date of
27 retirement through July 1, 2023.

28 (iii) 1. Any adjustment made under this paragraph shall include
29 a lump sum payment of the basic allowance, including all cost-of-living adjustments the
30 retiree would have received from the date of retirement through July 1, 2023, with interest
31 calculated at 4% per year, compounded annually.

32 2. The retroactive lump sum adjustment paid under
33 subsubparagraph 1 of this subparagraph shall be reduced by the amount of the optional
34 retirement allowance that the retiree has received, including any cost-of-living
35 adjustments, from the retiree’s date of retirement through July 1, 2023, with interest
36 calculated at 4% per year, compounded annually.

1 (5) If the retiree predeceases the retiree's designated beneficiary, the
2 retiree's designated beneficiary shall receive the survivor benefit provided under §
3 24-403 of the State Personnel and Pensions Article.

4 (6) (i) If a retiree described in paragraph (1) of this subsection dies after
5 the date the retiree married the retiree's designated beneficiary but before July 1, 2023,
6 the Board of Trustees shall adjust the survivor benefit the retiree's designated beneficiary
7 is receiving on July 1, 2023, to an amount equal to the survivor benefit under § 24-403 of
8 the State Personnel and Pensions Article.

9 (ii) The adjustment made under subparagraph (i) of this paragraph
10 shall include any cost-of-living adjustments:

11 1. the retiree would have received to the retiree's basic
12 allowance from the date of retirement through the retiree's date of death; and

13 2. the retiree's designated beneficiary would have received
14 from the date of the retiree's death through July 1, 2023.

15 (iii) 1. Any adjustment made under subparagraph (i) of this
16 paragraph shall include a lump sum payment of the survivor benefit determined under §
17 24-403 of the State Personnel and Pensions Article, including all cost-of-living
18 adjustments, that would have been paid from the retiree's date of death through July 1,
19 2023, with interest calculated at 4% per year, compounded annually.

20 2. The retroactive lump sum adjustment paid under
21 subparagraph 1 of this subparagraph shall be reduced by the amount of the optional
22 survivor benefit paid under § 21-403 of the State Personnel and Pensions Article that any
23 designated beneficiary has received from the date of the retiree's death, including any
24 cost-of-living adjustments that may have been made, through July 1, 2023, with interest
25 calculated at 4% per year, compounded annually.

26 (iv) 1. In addition to the lump sum payment under subparagraph
27 (iii) of this paragraph, the Board of Trustees shall pay to the deceased retiree's designated
28 beneficiary a lump sum payment equal to the basic allowance, including all cost-of-living
29 adjustments, that would have been paid from the retiree's date of retirement through the
30 retiree's date of death, with interest calculated at 4% per year, compounded annually,
31 through July 1, 2023.

32 2. The retroactive lump sum adjustment paid under
33 subparagraph 1 of this subparagraph shall be reduced by the amount of the optional
34 retirement allowance that the retiree received, including all cost-of-living adjustments,
35 from the retiree's date of retirement to the retiree's date of death, with interest calculated
36 at 4% per year, compounded annually.

1 (c) (1) This subsection applies to a retiree of the Law Enforcement Officers'
2 Pension System who:

3 (i) retired on or before December 31, 2012;

4 (ii) at the time of retirement, selected one of the optional allowances
5 available under § 21–403 of the State Personnel and Pensions Article and designated an
6 individual of the same sex as the retiree to be a designated beneficiary;

7 (iii) on or after January 1, 2013, married the retiree's designated
8 beneficiary; and

9 (iv) on July 1, 2023, was not divorced from the retiree's designated
10 beneficiary.

11 (2) (i) On or before December 31, 2023, a retiree described in paragraph
12 (1) of this subsection may submit to the Board of Trustees:

13 1. a form provided by the State Retirement Agency,
14 requesting that the retiree's optional retirement allowance be converted to a basic
15 allowance that provides the spouse of the retiree with a survivor benefit under § 26–402 of
16 the State Personnel and Pensions Article;

17 2. a marriage license indicating the retiree entered into a
18 marriage with the retiree's designated beneficiary; and

19 3. a form provided by the State Retirement Agency
20 confirming the retiree and designated beneficiary are not divorced on or before July 1, 2023.

21 (ii) If a retiree described in paragraph (1) of this subsection dies after
22 the date the retiree married the retiree's designated beneficiary but before July 1, 2023,
23 the retiree's designated beneficiary may submit the documents required under
24 subparagraph (i) of this paragraph.

25 (3) (i) If a retiree is alive and submitted the documents as required
26 under paragraph (2)(i) of this subsection, the Board of Trustees shall adjust the retiree's
27 optional retirement allowance as provided in paragraph (4) of this subsection after
28 receiving the documents.

29 (ii) If a retiree is deceased and the retiree's designated beneficiary
30 submitted the documents under paragraph (2)(ii) of this subsection, the Board of Trustees,
31 after receiving the documents, shall:

32 1. adjust the designated beneficiary's survivor benefit as
33 provided in paragraph (6)(i) of this subsection; and

1 2. The retroactive lump sum adjustment paid under
2 subsubparagraph 1 of this subparagraph shall be reduced by the amount of the optional
3 survivor benefit paid under § 21–403 of the State Personnel and Pensions Article that any
4 designated beneficiary has received from the date of the retiree’s death, including any
5 cost-of-living adjustments that may have been made, through July 1, 2023, with interest
6 calculated at 4% per year, compounded annually.

7 (iv) 1. In addition to the lump sum payment under subparagraph
8 (iii) of this paragraph, the Board of Trustees shall pay to the deceased retiree’s designated
9 beneficiary a lump sum payment equal to the basic allowance, including all cost-of-living
10 adjustments, that would have been paid from the retiree’s date of retirement through the
11 retiree’s date of death, with interest calculated at 4% per year, compounded annually,
12 through July 1, 2023.

13 2. The retroactive lump sum adjustment paid under
14 subsubparagraph 1 of this subparagraph shall be reduced by the amount of the optional
15 retirement allowance that the retiree received, including all cost-of-living adjustments,
16 from the retiree’s date of retirement to the retiree’s date of death, with interest calculated
17 at 4% per year, compounded annually.

18 (d) (1) This subsection applies to a retiree of the Judges’ Retirement System
19 who:

20 (i) retired on or before December 31, 2012;

21 (ii) at the time of retirement, selected one of the optional allowances
22 available under § 21–403 of the State Personnel and Pensions Article and designated an
23 individual of the same sex as the retiree to be a designated beneficiary;

24 (iii) on or after January 1, 2013, married the retiree’s designated
25 beneficiary; and

26 (iv) on July 1, 2023, was not divorced from the retiree’s designated
27 beneficiary.

28 (2) (i) On or before December 31, 2023, a retiree described in paragraph
29 (1) of this subsection may submit to the Board of Trustees:

30 1. a form provided by the State Retirement Agency,
31 requesting that the retiree’s optional retirement allowance be converted to a basic
32 allowance that provides the spouse of the retiree with a survivor benefit under § 27–403 of
33 the State Personnel and Pensions Article;

34 2. a marriage license indicating the retiree entered into a
35 marriage with the retiree’s designated beneficiary; and

1 3. a form provided by the State Retirement Agency
2 confirming the retiree and designated beneficiary are not divorced on or before July 1, 2023.

3 (ii) If a retiree described in paragraph (1) of this subsection dies after
4 the date the retiree married the retiree's designated beneficiary but before July 1, 2023,
5 the retiree's designated beneficiary may submit the documents required under
6 subparagraph (i) of this paragraph.

7 (3) (i) If a retiree is alive and submitted the documents as required
8 under paragraph (2)(i) of this subsection, the Board of Trustees shall adjust the retiree's
9 optional retirement allowance as provided in paragraph (4) of this subsection after
10 receiving the documents.

11 (ii) If a retiree is deceased and the retiree's designated beneficiary
12 submitted the documents under paragraph (2)(ii) of this subsection, the Board of Trustees,
13 after receiving the documents, shall:

14 1. adjust the designated beneficiary's survivorship benefit as
15 provided in paragraph (6)(i) of this subsection; and

16 2. make a lump sum payment to the retiree's designated
17 beneficiary as provided in paragraph (6)(iii) of this subsection.

18 (4) (i) The Board of Trustees shall adjust a retiree's optional retirement
19 allowance to an amount equal to the basic allowance the retiree would have received at the
20 time of retirement.

21 (ii) The adjustment made under subparagraph (i) of this paragraph
22 shall include any cost-of-living increases the retiree would have received from the date of
23 retirement through July 1, 2023.

24 (iii) 1. Any adjustment made under this paragraph shall include
25 a lump sum payment of the basic allowance, including all cost-of-living adjustments the
26 retiree would have received from the date of retirement through July 1, 2023, with interest
27 calculated at 4% per year, compounded annually.

28 2. The retroactive lump sum adjustment paid under
29 subparagraph 1 of this subparagraph shall be reduced by the amount of the optional
30 retirement allowance that the retiree has received, including any cost-of-living
31 adjustments, from the retiree's date of retirement through July 1, 2023, with interest
32 calculated at 4% per year, compounded annually.

33 (5) If the retiree predeceases the retiree's designated beneficiary, the
34 retiree's designated beneficiary shall receive the survivor benefit provided under §
35 27-403 of the State Personnel and Pensions Article.

1 (6) (i) If a retiree described in paragraph (1) of this subsection dies after
2 the date the retiree married the retiree's designated beneficiary but before July 1, 2023,
3 the Board of Trustees shall adjust the survivor benefit the retiree's designated beneficiary
4 is receiving on July 1, 2023, to an amount equal to the survivor benefit under § 27-403 of
5 the State Personnel and Pensions Article.

6 (ii) The adjustment made under subparagraph (i) of this paragraph
7 shall include any cost-of-living adjustments:

8 1. the retiree would have received to the retiree's basic
9 allowance from the date of retirement through the retiree's date of death; and

10 2. the retiree's designated beneficiary would have received
11 from the date of the retiree's death through July 1, 2023.

12 (iii) 1. Any adjustment made under subparagraph (i) of this
13 paragraph shall include a lump sum payment of the survivor benefit determined under §
14 27-403 of the State Personnel and Pensions Article, including all cost-of-living
15 adjustments, that would have been paid from the retiree's date of death through July 1,
16 2023, with interest calculated at 4% per year, compounded annually.

17 2. The retroactive lump sum adjustment paid under
18 subparagraph 1 of this subparagraph shall be reduced by the amount of the optional
19 survivor benefit paid under § 21-403 of the State Personnel and Pensions Article that any
20 designated beneficiary has received from the date of the retiree's death, including any
21 cost-of-living adjustments that may have been made, through July 1, 2023, with interest
22 calculated at 4% per year, compounded annually.

23 (iv) 1. In addition to the lump sum payment under subparagraph
24 (iii) of this paragraph, the Board of Trustees shall pay to the deceased retiree's designated
25 beneficiary a lump sum payment equal to the basic allowance, including all cost-of-living
26 adjustments, that would have been paid from the retiree's date of retirement through the
27 retiree's date of death, with interest calculated at 4% per year, compounded annually,
28 through July 1, 2023.

29 2. The retroactive lump sum adjustment paid under
30 subparagraph 1 of this subparagraph shall be reduced by the amount of the optional
31 retirement allowance that the retiree received, including all cost-of-living adjustments,
32 from the retiree's date of retirement to the retiree's date of death, with interest calculated
33 at 4% per year, compounded annually.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
35 1, 2023. It shall remain effective for a period of 1 year and, at the end of June 30, 2024, this
36 Act, with no further action required by the General Assembly, shall be abrogated and of no
37 further force and effect.