

Chapter 200

(Senate Bill 454)

AN ACT concerning

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

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

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 24–403, 26–402, and 27–403
Annotated Code of Maryland
(2015 Replacement Volume and 2022 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

24–403.

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

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

(1) to the surviving spouse; or

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

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, if the Board of Trustees pays an allowance 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 18 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 18 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 18 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 this paragraph shall be divided equally among the disabled children.

26-402.

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

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

- (1) the surviving spouse; or

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

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, if the Board of Trustees pays an allowance 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 this paragraph shall be divided equally among the disabled children.

27-403.

(a) (1) Except as provided in paragraph (2) of this subsection, 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 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 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.

SECTION 2. AND BE IT FURTHER ENACTED, That:

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

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

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

(4) “Board of Trustees” means the Board of Trustees for the State Retirement and Pension System.

(5) “Designated beneficiary” means a person named as beneficiary by a member, a former member, or a retiree by filing:

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

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

(6) “Judges’ Retirement System” means the Judges’ Retirement System of the State of Maryland.

(7) “Law Enforcement Officers’ Pension System” means the Law Enforcement Officers’ Pension System of the State of Maryland.

(8) “Member” means, unless a different meaning is plainly required by the context, an individual:

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

(ii) 1. for whom membership in a State system is optional; and
2. who has elected to become a member of that State system.

(9) “Pension” means the part of an allowance that is derived from employer contributions.

(10) “Retiree” means an individual who:

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

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

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

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

(ii) “Retirement allowance” includes:

1. a service retirement allowance; and
2. a disability retirement allowance.

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

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

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

- (i) retired on or before December 31, 2012;
- (ii) at the time of retirement, selected one of the optional allowances available under § 21-403 of the State Personnel and Pensions Article and designated an individual of the same sex as the retiree to be a designated beneficiary;
- (iii) on or after January 1, 2013, married the retiree’s designated beneficiary; and
- (iv) on July 1, 2023, was not divorced from the retiree’s designated beneficiary.

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

1. a form provided by the State Retirement Agency, requesting that the retiree’s optional retirement allowance be converted to a basic allowance that provides the spouse of the retiree with a survivor benefit under § 24-403 of the State Personnel and Pensions Article;
2. a marriage license indicating the retiree entered into a marriage with the retiree’s designated beneficiary; and
3. a form provided by the State Retirement Agency confirming the retiree and designated beneficiary are not divorced on or before July 1, 2023.

(ii) If a retiree described in paragraph (1) of this subsection dies after the date the retiree married the retiree’s designated beneficiary but before July 1, 2023,

the retiree's designated beneficiary may submit the documents required under subparagraph (i) of this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) If the retiree predeceases the retiree's designated beneficiary, the retiree's designated beneficiary shall receive the survivor benefit provided under § 26-402 of the State Personnel and Pensions Article.

(6) (i) If a retiree described in paragraph (1) of this subsection dies after the date the retiree married the retiree's designated beneficiary but before July 1, 2023, the Board of Trustees shall adjust the survivor benefit the retiree's designated beneficiary is receiving on July 1, 2023, to an amount equal to the survivor benefit under § 26-402 of the State Personnel and Pensions Article.

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

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

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

(iii) 1. Any adjustment made under subparagraph (i) of this paragraph shall include a lump sum payment of the survivor benefit determined under § 26-402 of the State Personnel and Pensions Article, including all cost-of-living adjustments, that would have been paid from the retiree's date of death through July 1, 2023, with interest calculated at 4% per year, compounded annually.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) If a retiree described in paragraph (1) of this subsection dies after the date the retiree married the retiree's designated beneficiary but before July 1, 2023,

the retiree's designated beneficiary may submit the documents required under subparagraph (i) of this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 24, 2023.