

2018 Regular Session

SENATE BILL NO. 12

BY SENATOR PEACOCK

MUNICIPAL POL EMPS RET. Provides for survivor benefits. (6/30/18)

1 AN ACT

2 To amend and reenact R.S. 11:2213(22), 2220(B)(2), 2241.8, and 2242.8 and to enact R.S.  
3 11:2213(23) and (24) and 2225(E), relative to the Municipal Police Employees'  
4 Retirement System; to provide for definitions; to provide for survivor benefit  
5 qualifications; to provide for an effective date; and to provide for related matters.

6 Notice of intention to introduce this Act has been published.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 11:2213(22), 2220(B)(2), 2241.8, and 2242.8 are hereby amended  
9 and reenacted and R.S. 11:2213(23) and (24) and 2225(E) are hereby enacted to read as  
10 follows:

11 §2213. Definitions

12 The following words and phrases, as used in this Chapter, unless a different  
13 meaning is plainly required by context, shall have the following meanings:

14 \* \* \*

15 (22) **"Student" shall mean a person who satisfies both of the following:**

16 **(a) The person is enrolled in a high school or postsecondary education**  
17 **institution duly accredited or approved by the appropriate state, regional, or**

1 professional accrediting agency which is recognized by the state in which it is  
2 located or by the United States Department of Education pursuant to the  
3 applicable laws, rules, or regulations.

4 (b) The person is enrolled in a sufficient number of courses and classes  
5 in such institution to be classified as a full-time regular student under the  
6 criteria used by the institution in which he is enrolled. The educational  
7 institution shall provide written notification to the system that the person is in  
8 full-time status.

9 (23) "Survivor's benefit" shall mean any benefit paid to a survivor of a  
10 member under R.S. 11:2220(B), 2241.8, or 2242.8.

11 (24)(a) "Surviving child" shall mean an unmarried person under the age  
12 of eighteen years or an unmarried student under the age of twenty-three years,  
13 if the person or student is one of the following:

- 14 (i) The issue of a marriage of a member of this system.
- 15 (ii) The legally adopted child of a member of this system.
- 16 (iii) A child born outside of marriage of a female member of this system.
- 17 (iv) The child of a male member of this system, if a court of competent  
18 jurisdiction has, pursuant to the provisions of the Civil Code, rendered a  
19 judgment of filiation declaring the paternity of such member for the child.

20 (b) "Surviving child" shall also mean a person, regardless of age, who  
21 meets one of the criteria in Items (a)(i) through (a)(iv) of this Paragraph who  
22 has a total physical disability or intellectual disability, as certified by the  
23 medical board, if the person had the disability at the time of death of the  
24 member or acquired the disability prior to the attainment of age eighteen and  
25 is dependent upon the surviving spouse or other legal guardian for subsistence.

26 \* \* \*

27 §2220. Benefits; contribution limit

28 \* \* \*

29 B. Benefits shall be payable to any survivor of an active contributing member

1 who dies before retirement or a disability retiree who dies after retirement as  
2 specified in the following:

3 \* \* \*

4 (2)(a) If an active contributing member or a disability retiree dies and leaves,  
5 in addition to a surviving spouse, one or more **surviving** children ~~under eighteen~~  
6 ~~years of age~~, each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits  
7 equal to ten percent of the deceased member's average compensation, or two hundred  
8 dollars per month, whichever is greater. However, benefits payable on account of  
9 each **surviving** child, when added to the benefits payable to the surviving spouse,  
10 shall not exceed an aggregate of one hundred percent of the deceased member's  
11 average compensation. ~~Benefits for a surviving child shall cease upon the child's~~  
12 ~~attainment of age eighteen years or upon marriage, whichever occurs first, except~~  
13 ~~that benefits shall continue:~~

14 (i) ~~For a surviving child to age twenty-three provided the child is a full-time,~~  
15 ~~unmarried student at a recognized institution of higher education, high school, or~~  
16 ~~vocational-technical school, and~~

17 (ii) ~~For a surviving child with a total physical disability or intellectual~~  
18 ~~disability if such child had a total physical disability or intellectual disability at the~~  
19 ~~time of death of the member or acquired such disability prior to the attainment of age~~  
20 ~~eighteen and is dependent upon the surviving spouse or other legal guardian for~~  
21 ~~subsistence.~~

22 (b) If an active contributing member or a disability retiree dies and does not  
23 leave a surviving spouse but leaves one or more **surviving** children ~~under the age of~~  
24 ~~eighteen~~, each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits  
25 equal to thirty percent of the deceased member's average compensation. Benefits  
26 paid on account of each **surviving** child shall not exceed an aggregate of sixty  
27 percent of the average compensation. In the event the deceased member is survived  
28 by only one ~~minor~~ **surviving** child, the **surviving** child shall be paid not less than  
29 forty percent of the deceased member's average compensation. ~~Benefits shall~~

1 ~~continue after the minor child attains age eighteen as provided in R.S.~~  
2 ~~11:2220(B)(2)(a)(i) and R.S. 11:2220(B)(2)(a)(ii).~~

3 (c) If at the time of a member's death the member is not married to the natural  
4 parent of any child or children who are entitled to receive a payment pursuant to this  
5 Subsection and if a trust has been created by the deceased member for the benefit of  
6 such child or children, the payment shall be made to any person designated as a  
7 trustee by the member on a certified copy of a trust document submitted to the  
8 system by the member.

9 **(d) Qualifying survivor's benefits are payable upon application therefor**  
10 **and become effective as of the day following the death of the member.**

11 \* \* \*

12 §2225. Administration

13 \* \* \*

14 **E. Notwithstanding any other provision of law to the contrary, the board**  
15 **of trustees shall not have the right to collect overpayments of a survivor benefit**  
16 **paid in administrative error prior to June 30, 2018, to the surviving child of a**  
17 **member whose death occurred on or before June 30, 2017, except in the case of**  
18 **fraud.**

19 \* \* \*

20 §2241.8. Survivor benefits

21 Benefits shall be payable to any survivor of an active contributing member  
22 who dies before retirement or a disability retiree who dies after retirement as  
23 specified in the following:

24 (1)(a) If an active contributing member or a disability retiree either of whom  
25 has at least ten years of creditable service in the system dies and leaves a surviving  
26 spouse, the surviving spouse shall receive a benefit calculated according to the  
27 regular retirement formula, disregarding age, but not less than thirty-three percent  
28 nor more than fifty-five percent of the member's average final compensation. If the  
29 surviving spouse remarries, such benefit shall cease unless remarriage occurs after

1 age sixty years; the benefit shall resume after a subsequent termination of the new  
2 marriage and upon approval of the board of trustees.

3 (b) If the board of trustees determines that an active contributing member is  
4 killed as a result of injuries sustained in the line of duty, the cessation of benefits  
5 upon remarriage set forth in this Paragraph shall not apply. The surviving spouse  
6 shall receive a benefit equal to one hundred percent of the member's average final  
7 compensation less any survivor benefits payable to a surviving child or children as  
8 provided in this Section. The sum of survivor benefits paid to surviving children and  
9 a surviving spouse shall not exceed one hundred percent of the member's average  
10 final compensation. No funds derived from the assessments against insurers pursuant  
11 to R.S. 22:1476 shall be used to pay any increased costs or increase in liability of the  
12 system resulting from the payment of benefits to a surviving spouse pursuant to this  
13 Subparagraph.

14 (2)(a) If an active contributing member or a disability retiree either of whom  
15 has at least ten years of creditable service in the system dies and leaves, in addition  
16 to a surviving spouse, one or more surviving children ~~under eighteen years of age,~~  
17 each surviving child ~~under age eighteen~~ shall be paid monthly benefits equal to ten  
18 percent of the deceased member's average final compensation, or two hundred  
19 dollars per month, whichever is greater. However, benefits payable on account of  
20 each surviving child, when added to the benefits payable to the surviving spouse,  
21 shall not exceed an aggregate of one hundred percent of the deceased member's  
22 average final compensation. ~~Benefits for a surviving child shall cease upon the~~  
23 ~~child's attainment of age eighteen years or upon marriage, whichever occurs first,~~  
24 ~~except that benefits shall continue:~~

25 (i) ~~For a surviving child to age twenty-three if the child is a full-time,~~  
26 ~~unmarried student at a recognized institution of higher education, high school, or~~  
27 ~~vocational-technical school, and~~

28 (ii) ~~For a surviving child with a total physical disability or mental disability~~  
29 ~~if such child had a total physical disability or mental disability at the time of death~~

1 of the member or acquired such disability prior to the attainment of age eighteen and  
2 is dependent upon the surviving spouse or other legal guardian for subsistence.

3 (b) If an active contributing member or a disability retiree either of whom has  
4 at least ten years of creditable service in the system dies and does not leave a  
5 surviving spouse but leaves one or more **surviving** children ~~under the age of~~  
6 ~~eighteen~~, each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits  
7 equal to twenty-five percent of the deceased member's average final compensation.  
8 Benefits paid on account of each **surviving** child shall not exceed an aggregate of  
9 fifty percent of the average final compensation. If the deceased member is survived  
10 by only one ~~minor~~ **surviving** child, the **surviving** child shall be paid not less than  
11 thirty percent of the deceased member's average final compensation. ~~Benefits shall~~  
12 ~~continue after the minor child attains age eighteen as provided in Subparagraph (a)~~  
13 ~~of this Paragraph.~~

14 (c) If at the time of a member's death the member is not married to the natural  
15 parent of any **surviving** child or children who are entitled to receive a payment  
16 pursuant to this Section and if a trust has been created by the deceased member for  
17 the benefit of such **surviving** child or children, the payment shall be made to any  
18 person designated as a trustee by the member on a certified copy of a trust document  
19 submitted to the system by the member.

20 (3) If a member who is eligible for retirement dies before retiring, the  
21 surviving spouse shall automatically be paid benefits as though the member had  
22 retired on the date of his death and elected Option 2, naming the surviving spouse as  
23 beneficiary, or shall be paid benefits as provided in this Section whichever is greater.

24 (4) Any member who has twelve or more years of service credit established  
25 in the retirement system and who terminates covered employment and leaves his  
26 accumulated contributions in the retirement system in order to receive a retirement  
27 benefit upon reaching the applicable age shall be covered by the survivor benefit  
28 provisions found in this Section.

29 \* \* \*

1 §2242.8. Survivor benefits

2 Benefits shall be payable to any survivor of an active contributing member  
3 who dies before retirement or a disability retiree who dies after retirement as  
4 specified in the following:

5 (1)(a) If an active contributing member or a disability retiree either of whom  
6 has at least ten years of creditable service in the system dies and leaves a surviving  
7 spouse, the surviving spouse shall receive a benefit calculated according to the  
8 regular retirement formula, disregarding age, but not less than twenty-five percent  
9 nor more than fifty percent of the member's average final compensation. If the  
10 surviving spouse remarries, such benefit shall cease unless remarriage occurs after  
11 age sixty years; the benefit shall resume after a subsequent termination of the new  
12 marriage and upon approval of the board of trustees.

13 (b) If the board of trustees determines that an active contributing member is  
14 killed as a result of injuries sustained in the line of duty, the cessation of benefits  
15 upon remarriage set forth in this Paragraph shall not apply. The surviving spouse  
16 shall receive a benefit equal to one hundred percent of the member's average final  
17 compensation less any survivor benefits payable to a **surviving** child or children as  
18 provided in this Section. The sum of survivor benefits paid to **surviving** children and  
19 a surviving spouse shall not exceed one hundred percent of the member's average  
20 final compensation. No funds derived from the assessments against insurers pursuant  
21 to R.S. 22:1476 shall be used to pay any increased costs or increase in liability of the  
22 system resulting from the payment of benefits to a surviving spouse pursuant to this  
23 Subparagraph.

24 (2)(a) If an active contributing member or a disability retiree either of whom  
25 has at least ten years of creditable service in the system dies and leaves, in addition  
26 to a surviving spouse, one or more **surviving** children ~~under eighteen years of age,~~  
27 each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits equal to ten  
28 percent of the deceased member's average final compensation, or two hundred  
29 dollars per month, whichever is greater. However, benefits payable on account of

1 each **surviving** child, when added to the benefits payable to the surviving spouse,  
2 shall not exceed an aggregate of one hundred percent of the deceased member's  
3 average final compensation. ~~Benefits for a surviving child shall cease upon the~~  
4 ~~child's attainment of age eighteen years or upon marriage, whichever occurs first,~~  
5 ~~except that benefits shall continue:~~

6 (i) ~~For a surviving child to age twenty-three if the child is a full-time,~~  
7 ~~unmarried student at a recognized institution of higher education, high school, or~~  
8 ~~vocational-technical school, and~~

9 (ii) ~~For a surviving child with a total physical disability or mental disability~~  
10 ~~if such child had a total physical disability or mental disability at the time of death~~  
11 ~~of the member or acquired such disability prior to the attainment of age eighteen and~~  
12 ~~is dependent upon the surviving spouse or other legal guardian for subsistence.~~

13 (b) If an active contributing member or a disability retiree either of whom has  
14 at least ten years of creditable service in the system dies and does not leave a  
15 surviving spouse but leaves one or more **surviving** children ~~under the age of~~  
16 ~~eighteen~~, each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits  
17 equal to twenty percent of the deceased member's average final compensation.  
18 Benefits paid on account of each **surviving** child shall not exceed an aggregate of  
19 fifty percent of the average final compensation. If the deceased member is survived  
20 by only one ~~minor~~ **surviving** child, the **surviving** child shall be paid not less than  
21 twenty-five percent of the deceased member's average final compensation. ~~Benefits~~  
22 ~~shall continue after the minor child attains age eighteen as provided in Subparagraph~~  
23 ~~(a) of this Paragraph.~~

24 (c) If at the time of a member's death the member is not married to the natural  
25 parent of any **surviving** child or children who are entitled to receive a payment  
26 pursuant to this Section and if a trust has been created by the deceased member for  
27 the benefit of such **surviving** child or children, the payment shall be made to any  
28 person designated as a trustee by the member on a certified copy of a trust document  
29 submitted to the system by the member.



1 (3) If a member who is eligible for retirement dies before retiring, the  
 2 surviving spouse shall automatically be paid benefits as though the member had  
 3 retired on the date of his death and elected Option 2, naming the surviving spouse as  
 4 beneficiary, or shall be paid benefits as provided in this Section, whichever is  
 5 greater.

6 (4) Any member who has twelve or more years of service credit established  
 7 in the retirement system and who terminates covered employment and leaves his  
 8 accumulated contributions in the retirement system in order to receive a retirement  
 9 benefit upon reaching the applicable age shall be covered by the survivor benefit  
 10 provisions found in this Section.

11 \* \* \*

12 Section 2. This Act shall become effective on June 30, 2018; if vetoed by the  
 13 governor and subsequently approved by the legislature, this Act shall become effective on  
 14 June 30, 2018, or on the day following such approval by the legislature, whichever is later.

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The original instrument was prepared by Margaret M. Corley. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

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#### DIGEST

SB 12 Reengrossed

2018 Regular Session

Peacock

Present law, relative to the Municipal Police Employees' Retirement System (MPERS), provides for definitions.

Proposed law retains present law.

Proposed law defines "student" to mean a person who satisfies the following criteria:

- (1) Is enrolled in an accredited high school or postsecondary institution.
- (2) Is classified as full-time.

Proposed law defines the "surviving child" of a member to mean a child of the member by birth, adoption, or filiation who is also one of the following:

- (1) An unmarried person under age 18.
- (2) An unmarried student under age 23.
- (3) A person with a mental disability or total physical disability who is dependent on a legal guardian for subsistence.

Present law provides the qualifications for payment of survivor benefits accrued by an active

contributing member who dies before retirement.

Proposed law specifies that any payment of a survivor benefit to a child shall be in accordance with the definitions provided in proposed law.

Proposed law specifies that qualifying survivor's benefits are payable upon application therefor and become effective the day following the death of the member.

Proposed law prohibits the board of trustees from collecting overpayments of a survivor benefit paid in administrative error prior to June 30, 2018, to the surviving child of a member whose death occurred on or before June 30, 2017, except in the case of fraud.

Effective June 30, 2018.

(Amends R.S. 11:2213(22), 2220(B)(2), 2241.8, and 2242.8; adds R.S. 11:2213(23) and (24) and 2225(E))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Retirement to the original bill

1. Makes technical changes.

##### Senate Floor Amendments to engrossed bill

1. Make technical changes.
2. Prohibits the board of trustees from collecting overpayments of a survivor benefit paid in administrative error under certain circumstances.