

SENATE BILL NO. 12

BY SENATOR PEACOCK

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AN ACT

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

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

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

§2213. Definitions

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

* * *

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

(a) The person is enrolled in a high school or postsecondary education institution duly accredited or approved by the appropriate state, regional, or professional accrediting agency which is recognized by the state in which it is located or by the United States Department of Education pursuant to the applicable laws, rules, or regulations.

(b) The person is enrolled in a sufficient number of courses and classes in such institution to be classified as a full-time regular student under the

1 criteria used by the institution in which he is enrolled. The educational
2 institution shall provide written notification to the system that the person is in
3 full-time status.

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

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

9 (i) The issue of a marriage of a member of this system.

10 (ii) The legally adopted child of a member of this system.

11 (iii) A child born outside of marriage of a female member of this system.

12 (iv) The child of a male member of this system, if a court of competent
13 jurisdiction has, pursuant to the provisions of the Civil Code, rendered a
14 judgment of filiation declaring the paternity of such member for the child or the
15 member has formally acknowledged the child.

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

22 * * *

23 §2220. Benefits; contribution limit

24 * * *

25 B. Benefits shall be payable to any survivor of an active contributing member
26 who dies before retirement or a disability retiree who dies after retirement as
27 specified in the following:

28 * * *

29 (2)(a) If an active contributing member or a disability retiree dies and leaves,
30 in addition to a surviving spouse, one or more surviving children ~~under eighteen~~

1 years of age, each surviving child under age eighteen shall be paid monthly benefits
2 equal to ten percent of the deceased member's average compensation, or two hundred
3 dollars per month, whichever is greater. However, benefits payable on account of
4 each surviving child, when added to the benefits payable to the surviving spouse,
5 shall not exceed an aggregate of one hundred percent of the deceased member's
6 average compensation. ~~Benefits for a surviving child shall cease upon the child's~~
7 ~~attainment of age eighteen years or upon marriage, whichever occurs first, except~~
8 ~~that benefits shall continue:~~

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

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

17 (b) If an active contributing member or a disability retiree dies and does not
18 leave a surviving spouse but leaves one or more surviving children under the age of
19 eighteen, each surviving child under age eighteen shall be paid monthly benefits
20 equal to thirty percent of the deceased member's average compensation. Benefits
21 paid on account of each surviving child shall not exceed an aggregate of sixty
22 percent of the average compensation. In the event the deceased member is survived
23 by only one minor surviving child, the surviving child shall be paid not less than
24 forty percent of the deceased member's average compensation. ~~Benefits shall~~
25 ~~continue after the minor child attains age eighteen as provided in R.S.~~
26 ~~11:2220(B)(2)(a)(i) and R.S. 11:2220(B)(2)(a)(ii).~~

27 (c) If at the time of a member's death the member is not married to the natural
28 parent of any child or children who are entitled to receive a payment pursuant to this
29 Subsection and if a trust has been created by the deceased member for the benefit of
30 such child or children, the payment shall be made to any person designated as a

1 trustee by the member on a certified copy of a trust document submitted to the
2 system by the member.

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

5 * * *

6 §2225. Administration

7 * * *

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

13 * * *

14 §2241.8. Survivor benefits

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

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

26 (b) If the board of trustees determines that an active contributing member is
27 killed as a result of injuries sustained in the line of duty, the cessation of benefits
28 upon remarriage set forth in this Paragraph shall not apply. The surviving spouse
29 shall receive a benefit equal to one hundred percent of the member's average final
30 compensation less any survivor benefits payable to a surviving child or children as

1 provided in this Section. The sum of survivor benefits paid to **surviving** children and
2 a surviving spouse shall not exceed one hundred percent of the member's average
3 final compensation. No funds derived from the assessments against insurers pursuant
4 to R.S. 22:1476 shall be used to pay any increased costs or increase in liability of the
5 system resulting from the payment of benefits to a surviving spouse pursuant to this
6 Subparagraph.

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

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

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

25 (b) If an active contributing member or a disability retiree either of whom has
26 at least ten years of creditable service in the system dies and does not leave a
27 surviving spouse but leaves one or more **surviving** children ~~under the age of~~
28 ~~eighteen,~~ each **surviving** child ~~under age eighteen~~ shall be paid monthly benefits
29 equal to twenty-five percent of the deceased member's average final compensation.
30 Benefits paid on account of each **surviving** child shall not exceed an aggregate of

1 fifty percent of the average final compensation. If the deceased member is survived
 2 by only one ~~minor~~ **surviving** child, the **surviving** child shall be paid not less than
 3 thirty percent of the deceased member's average final compensation. ~~Benefits shall~~
 4 ~~continue after the minor child attains age eighteen as provided in Subparagraph (a)~~
 5 ~~of this Paragraph.~~

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

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

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

21 * * *

22 §2242.8. Survivor benefits

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

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

1 surviving spouse remarries, such benefit shall cease unless remarriage occurs after
2 age sixty years; the benefit shall resume after a subsequent termination of the new
3 marriage and upon approval of the board of trustees.

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

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

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

29 (ii) ~~For a surviving child with a total physical disability or mental disability~~
30 ~~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 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 twenty-five percent of the deceased member's average final compensation. ~~Benefits~~
 12 ~~shall continue after the minor child attains age eighteen as provided in Subparagraph~~
 13 ~~(a) 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
 24 greater.

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

30 * * *

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____